

Westfield City Council Members

Mark Keen, President (District 1)

Steve Hoover (District 2)

Robert L. Horkay, (District 5)

Chuck Lehman, (District 4)

Joe Edwards (District 3)

Cindy L. Spoljaric (At Large)

Jim Ake Vice President (At Large)



CITY OF WESTFIELD, IN
CityCouncil_Meeting_Agenda_01_12_2015

Monday, January 12, 2015 at 07:00 PM

BOARD OR COMMISSION: City Council Meeting

MEETING DATE: Monday, January 12, 2015 at 07:00 PM

MEETING PLACE: Westfield City Hall- Assembly Room

***THE FOLLOWING AGENDA IS SUBJECT TO CHANGE AT THE DISCRETION OF
THE COUNCIL***

AGENDA

Pledge of Allegiance

Invocation

Opening of Meeting

Note the presence of a quorum

Announce any changes to Agenda

Approval of Minutes:

Approval of City Council minutes of December 22, 2014 (special meeting)

Documents: [Minutes- 12/22/14](#)

Guests:

Residents who wish to address the Council on items not on the agenda may do so at this time.

Council Response to Guest Comments

Claims:

Approval of Claims

Documents: [Claims](#)

Miscellaneous Business/Special Recognition:

Miscellaneous Business: Nomination of President of 2015 City Council

Miscellaneous Business: Appointment of Vice-President of 2015 City Council

Miscellaneous Business: Chamber of Commerce Update

Miscellaneous Business: DWA Quarterly Update

Old Business:

Resolution 14-136: Sublease Agreements for Indoor Facility- Indiana Sports Properties & Byrd Enterprises

Council Introduction- December 8, 2014

Adoption Consideration- January 12, 2015

Documents: [Res. 14-136](#) | [Sublease Agreement- Indiana Sports Properties](#) | [Sublease Agreement- Byrd Enterprises](#)

Ordinance 14-50: Mapleridge PUD

Council Introduction- November 10, 2014

APC Public Hearing- December 1, 2014

APC Recommendation- December 15, 2014

Council Adoption Consideration- January 12, 2015

Documents: [Ord. 14-50](#) | [Reference Only: Concept Plan Exhibit](#) | [Reference Only: Location Map](#) | [Reference Only: Public Comment 12-22-14](#) | [Reference Only: Department Report](#)

Ordinance 14-51: Sheffield Park PUD

Council Introduction- November 10, 2014

APC Public Hearing- December 1, 2014

APC Recommendation- December 15, 2014

Council Adoption Consideration- January 12, 2015

Documents: [Ord. 14-51](#) | [Reference Only: Concept Plan Exhibit](#) | [Reference Only: Department Report](#) | [Reference Only: Location Map](#)

Ordinance 14-34: Springmill Trails PUD Text Amendment - Water's Edge Setback

Council Introduction - August 11, 2014

First Public Hearing - August 18, 2014

Second Public Hearing - December 15, 2014

Council Adoption Consideration - January 12, 2015

Documents: [Ord. 14-34](#) | [Reference Only: Department Report](#) | [Reference Only: Location Map](#) | [Reference Only: Map of Lots Affected](#)

New Business:

Resolution 15-100: Public Safety Training Facility

Adoption Consideration- January 12, 2015

Documents: [Res. 15-100](#)

Resolution 15-101: Metro Fibernet Economic Development Area

Adoption Consideration- January 12, 2015

Documents: [Res. 15-101](#) | [Reference Only: Executed RDC Declaratory Resolution 6-2014](#) | [Reference Only: Executed Plan Commissioner Order 15-01](#)

Ordinance 15-01: Metro Fibernet Bond Ordinance

Council Introduction- January 12, 2015

Adoption Consideration- January 26, 2015

Documents: [Ord. 15-01](#) | [Reference Only: Executed RDC Declaratory Resolution 6-2014](#) | [Reference Only: Executed Plan Commission Order](#) | [Reference Only: Executed EDC Resolution](#) | [Reference Only: Executed EDC Report](#) | [Reference Only: Trust Indenture](#) | [Reference Only: Financing Agreement](#)

City Council Comments

Mayor Comments

Adjourn

Executive Session: I.C. 5-14-1.5-6.1 (b) (2) (B): Legal Issues

Working Meeting

ORDINANCE NUMBER 14-50

AN ORDINANCE OF THE CITY OF WESTFIELD AND WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA CONCERNING AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE

This is a Planned Unit Development District Ordinance (to be known as the “**MAPLERIDGE PUD DISTRICT**”) to amend the Unified Development Ordinance of the City of Westfield and Washington Township, Hamilton County, Indiana (the "Unified Development Ordinance"), enacted by the City of Westfield pursuant to its authority under the laws of the State of Indiana, Ind. Code § 36-7-4 et seq., as amended.

WHEREAS, the City of Westfield, Indiana (the "City") and the Township of Washington, both of Hamilton County, Indiana are subject to the Unified Development Ordinance;

WHEREAS, the Westfield-Washington Advisory Plan Commission (the "Commission") considered a petition (**Petition No. 1412-PUD-18**), requesting an amendment to the Unified Development Ordinance and to the Zoning Map with regard to the subject real estate more particularly described in **Exhibit A** attached hereto (the "Real Estate");

WHEREAS, the Commission forwarded **Petition No. 1412-PUD-18** to the Common Council of the City of Westfield, Hamilton County, Indiana (the "Common Council") with a favorable recommendation (7-0) in accordance with Indiana Code § 36-7-4-608, as required by Indiana Code § 36-7-4-1505;

WHEREAS, the Secretary of the Commission certified the action of the Commission to the Common Council on December 16, 2014;

WHEREAS, the Common Council is subject to the provisions of the Indiana Code §36-7-4-1507 and Indiana Code § 36-7-4-1512 concerning any action on this request; and

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Westfield, Hamilton County, Indiana, meeting in regular session, that the Unified Development Ordinance and Zoning Map are hereby amended as follows:

Section 1. Applicability of Ordinance.

- 1.1 The Unified Development Ordinance and Zoning Map are hereby changed to designate the Real Estate as a Planned Unit Development District to be known as the “**Mapleridge PUD District**” (the “District”).
- 1.2 Development of the Real Estate shall be governed by: (i) the provisions of this Ordinance and its exhibits; and (ii) the provisions of the Unified Development Ordinance, as amended and applicable to the Underlying Zoning District or a Planned Unit Development District, except as modified, revised, supplemented or expressly made inapplicable by this Ordinance.
- 1.3 Chapter (“*Chapter*”) and Article (“*Article*”) cross-references of this Ordinance shall hereafter refer to the section as specified and referenced in the Unified Development Ordinance.
- 1.4 All provisions and representations of the Unified Development Ordinance that conflict with the provisions of this Ordinance are hereby made inapplicable to the Real Estate and shall be superseded by the terms of this Ordinance.

Section 2. Definitions. Capitalized terms not otherwise defined in this Ordinance shall have the meanings ascribed to them in the Unified Development Ordinance.

- 2.1 Frontage Road: The road labeled as “Frontage Road” on the Concept Plan.
- 2.2 Loop Street: The Street labeled as “Loop Street” on the Concept Plan.
- 2.3 Oak Road Lot: The Lot labeled “ORL” on the Concept Plan.
- 2.4 Pie Shaped Lot: A Lot designed in a manner where the length of the Rear Lot Line is at least twenty-five percent (25%) longer than the length of the Front Lot Line.
- 2.5 Trail: Any pedestrian or nature trail internal to the District that is used by pedestrians, hikers, or pets. A trail may be paved or maintained in a natural state (e.g., gravel, rock, grass or mulch).
- 2.6 Underlying Zoning District: The Zoning District of the Unified Development Ordinance that shall govern the development of this District and its various subareas, as set forth in Section 4 of this Ordinance.

Section 3. Concept Plan. The Concept Plan, attached hereto as **Exhibit B**, is hereby incorporated in accordance with *Article 10.9(F)(2) Planned Unit Development Districts; PUD District Ordinance Requirements; Concept Plan*.

Section 4. Underlying Zoning District(s). The Underlying Zoning District of this District shall be the SF2: Single Family Low Density District. Except as modified, revised, supplemented or expressly made inapplicable by this Ordinance, the standards of the Underlying Zoning District, as set forth above, shall apply.

Section 5. Permitted Uses. All uses permitted in the Underlying Zoning District shall be permitted.

Section 6. General Regulations. The standards of *Chapter 4: Zoning Districts*, as applicable to the Underlying Zoning District, shall apply to the development of the District, except as otherwise modified below.

- 6.1 Minimum Lot Frontage: 20 feet.
- 6.2 Minimum Front Yard Building Setback Line: 20 feet
- 6.3 Minimum Lot Width for Pie Shaped Lots: 80 feet
- 6.4 Minimum Living Area:
 - A. Single story: 2,500 square feet
 - B. Two story: 2,800 square feet
- 6.5 Oak Road Lot. The standards of the Underlying Zoning District, as modified herein, shall apply to the Oak Road Lot, except as otherwise modified below.
 - A. The Oak Road Lot shall be accessed by a Driveway directly onto Oak Road.
 - B. Minimum Front Yard Building Setback Line: 150 feet
 - C. The landscaping standards (with the exception of the Minimum Lot Landscaping Requirements) of the UDO shall not apply.
 - D. The existing Accessory Building on the Oak Road Lot shall be permitted to remain, to be expanded, or to be replaced, so long as there shall only be one (1) Accessory Building permitted on the Oak Road Lot, unless otherwise permitted by the UDO.

Section 7. Development Standards. The standards of *Chapter 6: Development Standards* shall apply to the development of the District, except as otherwise modified below.

- 7.1 Article 6.3 Architectural Standards: Shall apply. In addition, the following shall also apply:
 - A. Character Exhibit. The Character Exhibit, attached hereto as **Exhibit C**, is hereby incorporated as a compilation of images designed to capture the intended quality of structures to be constructed in the District. Although the exhibits do not necessarily represent the final design or specify a required architectural style or element, they do hereby establish a benchmark for the quality and appearance of structures that are required to

be constructed and that contribute to the District's intent and vision. It is not the intent to limit the architectural styles shown in the Character Exhibit, but to encourage diversity in architectural styles of Dwellings within the District. The Department shall determine whether a structure is consistent with the established benchmark and complies with the standards of this Ordinance. The Department's determination may be appealed to the Plan Commission.

B. Building Materials: In addition to *Article 6.3(C)(3) Building Materials*, the following shall apply:

- i. The roofs of all Dwellings shall be covered with dimensional shingles or decorative wood or slate shake styled shingles.
- ii. Vinyl and aluminum siding shall be prohibited.

C. Garages:

- i. All Dwellings shall have a minimum of a three (3) car attached garage.
- ii. All Dwellings shall have an angled, courtyard or side load garage. A maximum of fifty percent (50%) of a Dwelling's garage doors may be front load.

7.2 Article 6.5 Fence Standards: Shall apply. A wood fence (four to six feet in height) substantially similar in quality and character as the fence depicted to the right shall be installed where generally shown on the Concept Plan and labeled "Fence".



7.3 Article 6.8 Landscaping Standards: Shall apply, except as otherwise modified or enhanced below.

- A. Article 6.8(K): Minimum Lot Landscaping Requirements: shall apply; however, the minimum number of shrubs per Lot shall be enhanced to require fifteen (15) shrubs per Lot.
- B. Article 6.8(M) External Street Frontage Landscaping Requirements shall only apply along Oak Road in the areas labeled on the Concept Plan.
- C. Article 6.8(N) Buffer Yard Requirements shall apply; however, the existing vegetation and Natural Areas, labeled as "Preserved Natural Buffer Yard" on the Concept Plan, shall be preserved and satisfy the required Buffer Yard planting materials in these areas. A tree preservation easement shall be established within the Preserved Natural Buffer Yard. Within this tree preservation easement, no trees with a diameter at breast height ("DBH")

in excess of four inches (4”) or more (the “Protected Trees”) shall be removed unless the tree is damaged, diseased, dead, or is to be removed in order to: (1) comply with safety requirements of any governmental agency; or (2) to accommodate the installation of drainage, utilities, street connections or other infrastructure. If a Protected Tree is damaged or otherwise removed by the developer or builder, except as permitted to be removed as listed above, then the developer or builder shall reestablish the Protected Tree with a tree or trees of combined equal or greater DBH subject to the availability of space for their healthy growth in the tree preservation area.

Section 8. Infrastructure Standards. The District’s infrastructure shall comply with the Unified Development Ordinance and the City’s Construction Standards (see *Chapter 7: Subdivision Regulations*), unless otherwise approved by the Plan Commission or Department of Public Works in consideration of the preservation of the natural topography and environment and in consideration to the unique design intent of the District.

Section 9. Design Standards. The standards of *Chapter 8: Design Standards* shall apply to the development of the District, except as otherwise modified below.

9.1 Article 8.7 Pedestrian Network Standards shall apply, except as otherwise modified or enhanced below:

- A. A sidewalk shall not be required on the west side of the Frontage Road or on the interior of the Loop Street.
- B. Trails shall be prohibited along the north and northwest property lines, as generally shown in **Exhibit D**.
- C. Trails shall be installed as generally depicted on the Concept Plan; however, the final Trail locations may be subject to existing easements (e.g., Mary Wilson Drain) and final engineering. If Trails are prevented from being installed as generally shown, then alternative Trail locations may be approved that still provide access and connectivity to the District’s Open Space.

9.2 Article 8.9 Street and Right-of-Way Standards shall apply; however, subject to review and approval by the Public Works Department and Fire Department, as a part of the District’s Overall Development Plan:

- A. The Frontage Road cul-de-sac shall be permitted to have a maximum length of nine hundred (900) feet.
- B. The Loop Street, as generally shown on the Concept Plan, shall be permitted.
- C. Right-of-way shall be dedicated to provide a future connection point in the

southeast and northeast portions of the Real Estate. The final location of the proposed future connections, shown generally on the Concept Plan, may be subject to final engineering.

D. A paved emergency and pedestrian access shall be provided at the end of the Frontage Road, as generally shown on the Concept Plan.

9.3 Article 8.6 Open Space and Amenity Standards shall apply; however, the Minimum Open Space for the District shall be enhanced to require a minimum of sixteen percent (16%). All Open Space shall be common area and deeded to and maintained by a homeowners' association.

**[REMAINDER PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGES FOLLOW.]**

ALL OF WHICH IS ORDAINED/RESOLVED THIS 12TH DAY OF JANUARY, 2015.

WESTFIELD CITY COUNCIL

Voting For

Voting Against

Abstain

Jim Ake

Jim Ake

Jim Ake

Steven Hoover

Steven Hoover

Steven Hoover

Robert L. Horkay

Robert L. Horkay

Robert L. Horkay

Charles Lehman

Charles Lehman

Charles Lehman

Robert J. Smith

Robert J. Smith

Robert J. Smith

Cindy L. Spoljaric

Cindy L. Spoljaric

Cindy L. Spoljaric

Robert W. Stokes

Robert W. Stokes

Robert W. Stokes

ATTEST:

Cindy Gossard, Clerk Treasurer

I hereby certify that **ORDINANCE 14-50** was delivered to the Mayor of Westfield

on the _____ day of _____, 2015, at _____ m.

Cindy Gossard, Clerk-Treasurer

I hereby APPROVE **ORDINANCE 14-50**

this _____ day of _____, 2015.

J. Andrew Cook, Mayor

I hereby VETO **ORDINANCE 14-50**

this _____ day of _____, 2015.

J. Andrew Cook, Mayor

This document prepared by: Jim Langston, Langston Residential Development, LLC,
1132 S. Rangeline Road, Carmel, Indiana 46032 (317) 846-7017.

SCHEDULE OF EXHIBITS

Exhibit A	Real Estate (Legal Description)
Exhibit B	Concept Plan
Exhibit C	Character Exhibit
Exhibit D	Trail Exhibit

EXHIBIT A
REAL ESTATE

PARCEL I

Part of the West Half of the Northeast Quarter of Section 18, Township 18 North, Range 4 East in Hamilton County, Indiana, described as follows:

Beginning on the West line of the Northeast Quarter of Section 18, Township 18 North, Range 4 East 495.00 feet North 00 degrees 23 minutes 13 seconds West (assuming bearing) from the Southwest corner of said Northeast Quarter; thence North 00 degrees 23 minutes 13 seconds West on said West line 411.11 feet; thence North 89 degrees 42 minutes 36 seconds East 518.57 feet; thence North 00 degrees 23 minutes 13 seconds West parallel with said West line 252.00 feet; thence South 89 degrees 42 minutes 36 seconds East 518.57 feet to the West line of said Northeast Quarter; thence North 00 degrees 23 minutes 13 seconds West on said West line 237.89 feet; thence South 89 degrees 19 minutes 58 seconds East 500.20 feet; thence North 00 degrees 23 minutes 13 seconds West parallel with said West line 1269.40 feet to the North line of said Northeast Quarter; thence North 89 degrees 41 minutes 11 seconds East on said North line 832.87 feet to the East line of the West Half of said Northeast Quarter; thence South 00 degrees 16 minutes 27 seconds East on said East line 2162.38 feet to a point 834.20 feet South of the Northwest corner of the Southeast Quarter of said Northeast Quarter; thence South 89 degrees 42 minutes 36 seconds West 1328.73 feet to the place of beginning, containing 48.4533 acres more or less.

PARCEL II

Commence at a point seventeen and one-half (17 1/2) rods South of the Northwest corner of the Northeast Quarter of Section eighteen (18) Township eighteen (18) North, Range four (4) East and run East thirty (30) rods, South fifty-eight and one-half (58 1/2) rods, West thirty (30) rods, North fifty-eight and one-half (58 1/2) rods to the place of beginning, containing eleven (11) acres more or less.

EXCEPT THEREFROM:

Commencing at the Northwest corner of the Northeast Quarter of Section 18, Township 18 North, Range 4 East; thence South 00 degrees 23 minutes 13 seconds East (assumed bearing) 288.75 feet on and along the West line of said Northeast Quarter to the point of beginning of this description, said point being the Northwest corner of an 11.00 acre, more or less, tract of real estate described in Instrument Number 20003774 in the Records of Hamilton County, Indiana; thence North 89 degrees 41 minutes 11 seconds East 495.00 feet parallel with the North line of said Northeast Quarter to the Northeast corner of said 11.00 acre tract of real estate; thence South 00 degrees 23 minutes 13 seconds East 225.18 feet on and along the East line of said 11.00 acre tract of real estate and parallel with the West line of said Northeast Quarter; thence South 89 degrees 36 minutes 47 seconds West 269.50 feet; thence South 00 degrees 23 minutes 13 seconds East 84.74 feet parallel with the West line of said Northeast Quarter; thence South 89 degrees 41 minutes 11 seconds West 225.50 feet to the West line of said Northeast Quarter; thence North 00 degrees 23 minutes 13 seconds West 310.26 feet on and along the West line of the Northeast Quarter to the point of beginning, containing 3.0 acres more or less.

PARCEL III

Part of the West Half of the Northeast Quarter of Section 18, Township 18 North, Range 4 East in Hamilton County, Indiana, described as follows:

Beginning on the West line of the West Half of the Northeast Quarter of Section 18, Township 18 North, Range 4 East, 906.11 feet North 00 degrees 23 minutes 13 seconds West (assumed bearing) from the Southwest corner of said Northeast Quarter; thence North 89 degrees 42 minutes 36 seconds East 518.57 feet; thence North 00 degrees 23 minutes 13 seconds West parallel with said West line 252.00 feet; thence South 89 degrees 42 minutes 36 seconds West 518.57 feet to the West line of said Northeast Quarter; thence South 00 degrees 23 minutes 13 seconds East on said West line 252.00 feet to the place of beginning, containing 3.00 acres, more or less.

Parcels I, II and III with exceptions as noted total 59.45 acres, more or less.

EXHIBIT B
MAPLERIDGE CONCEPT PLAN

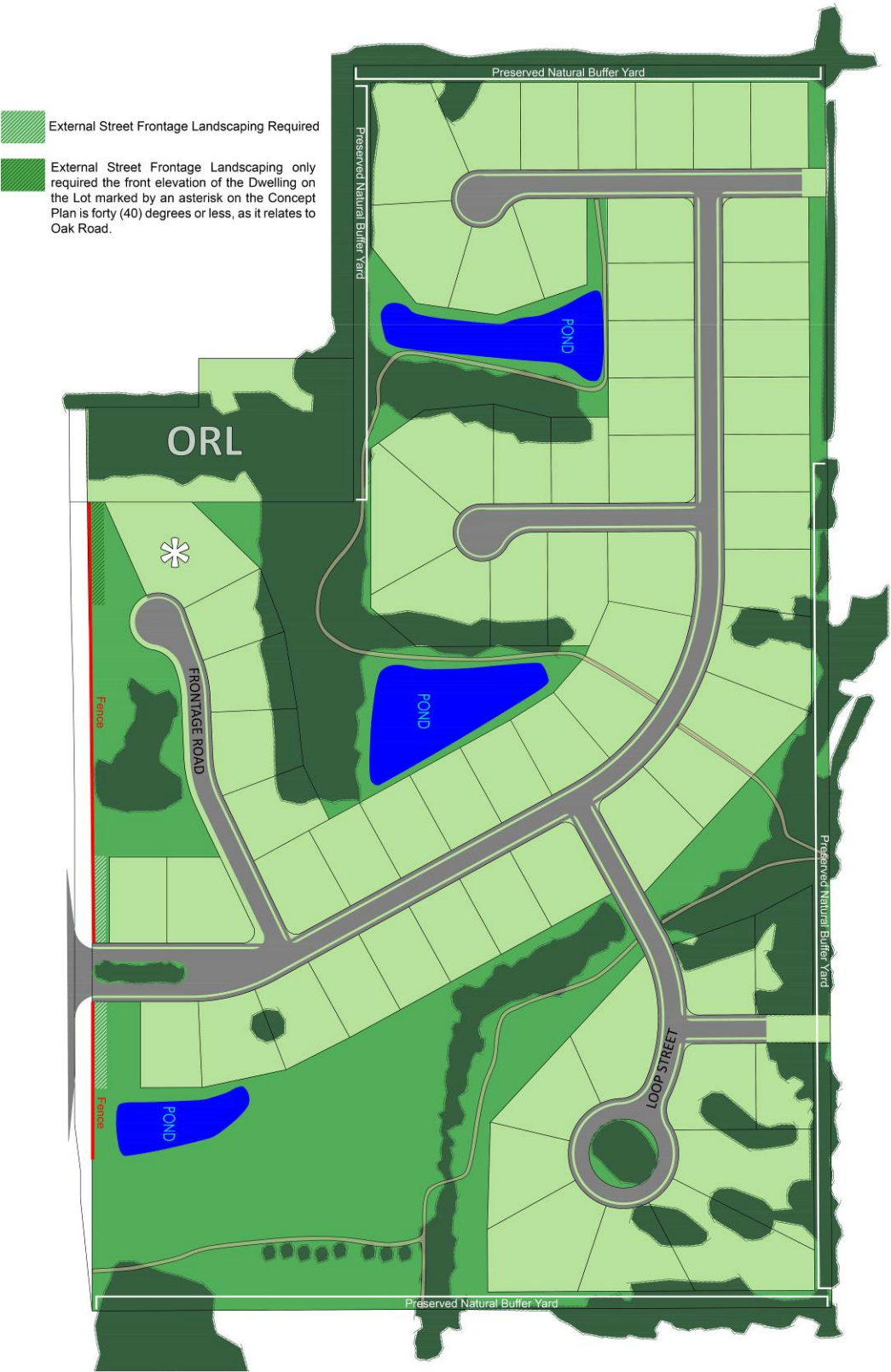


EXHIBIT C
CHARACTER EXHIBIT

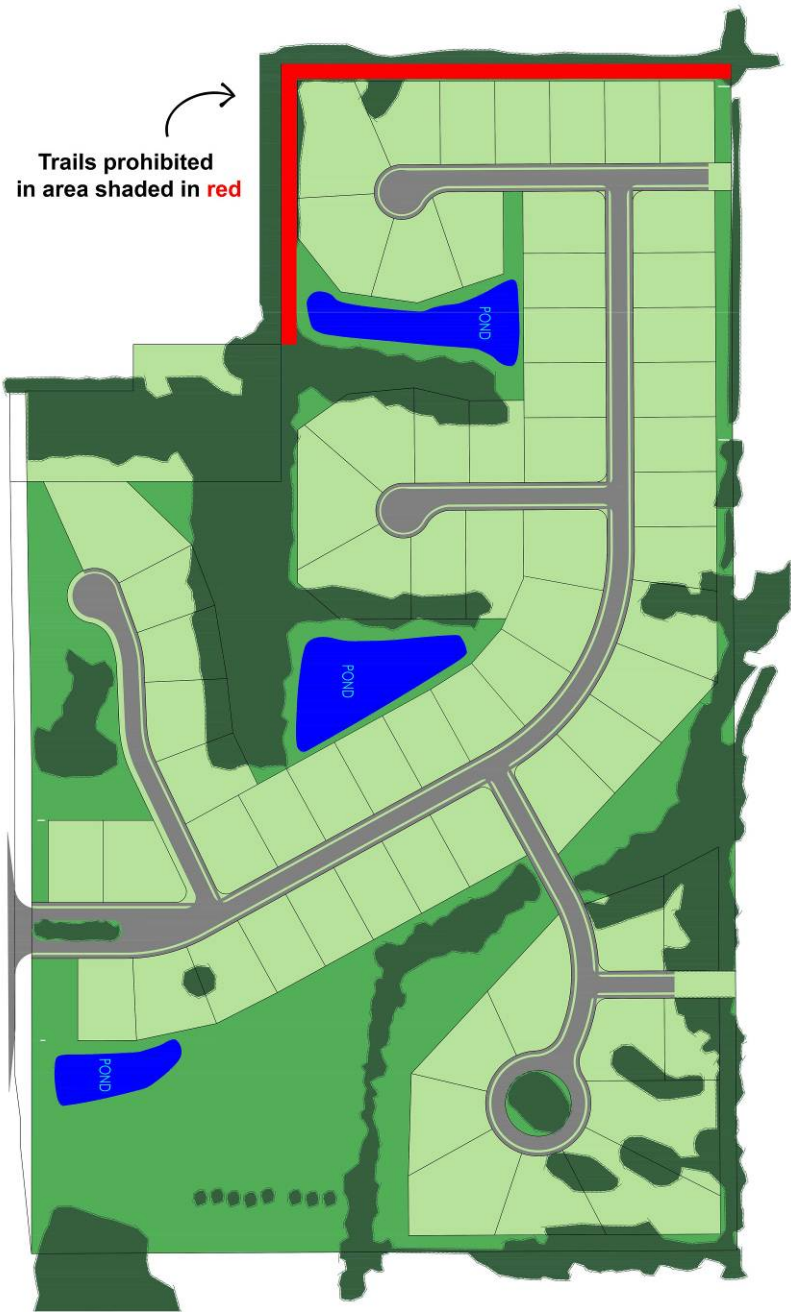
Character Exhibit (All pictures are homes located in Brookside)



EXHIBIT C
CHARACTER EXHIBIT (CONT.)



EXHIBIT D



PRIOR CONCEPT PLAN

PUD District

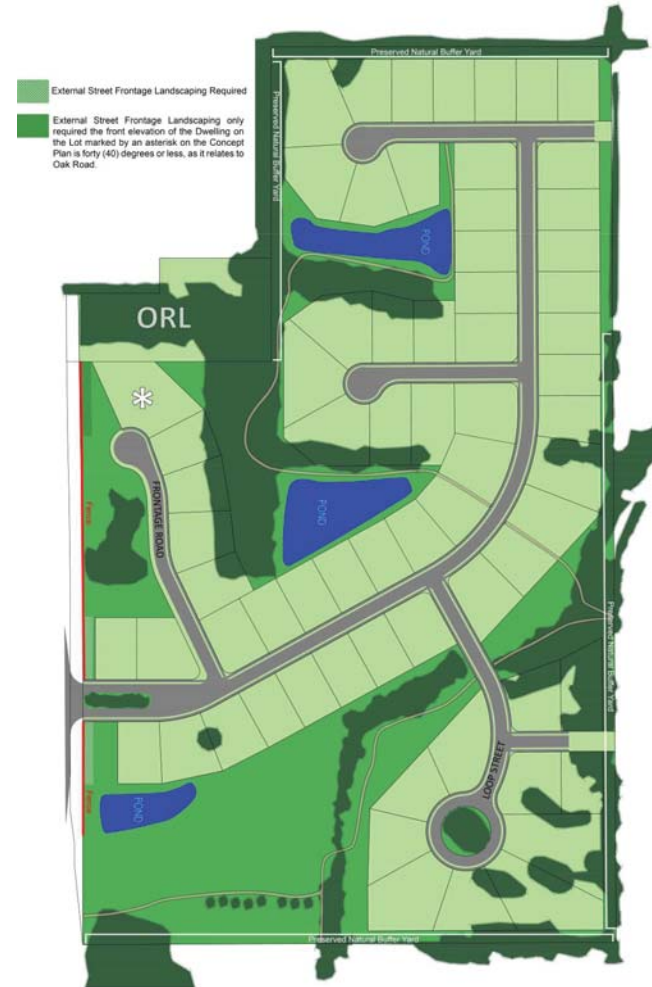
EXHIBIT B - MAPLERIDGE CONCEPT PLAN



REVISED CONCEPT PLAN

Mapleridge PUD District

EXHIBIT B MAPLERIDGE CONCEPT PLAN

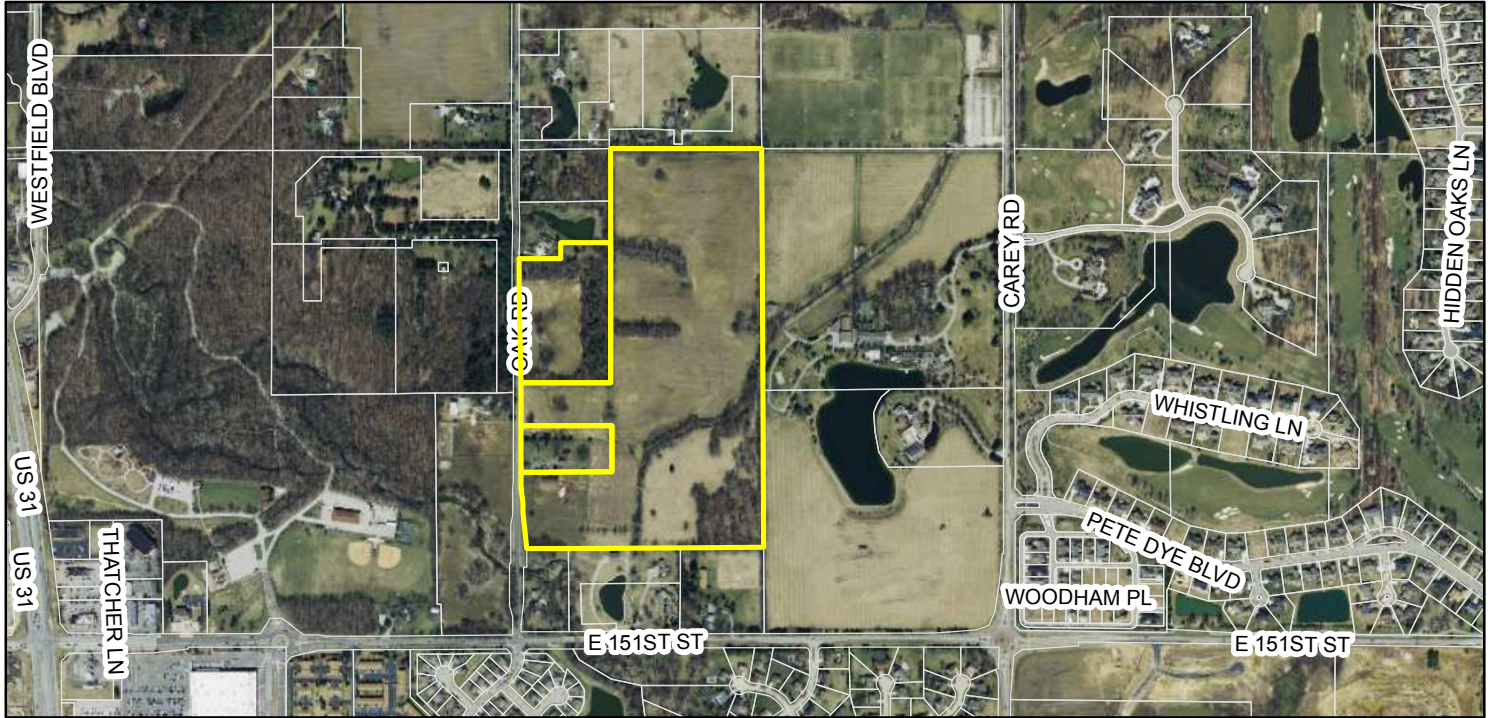


Property Location Map
Mapleridge Planned Unit Development District
1412-PUD-18 (Ordinance No. 14-50)

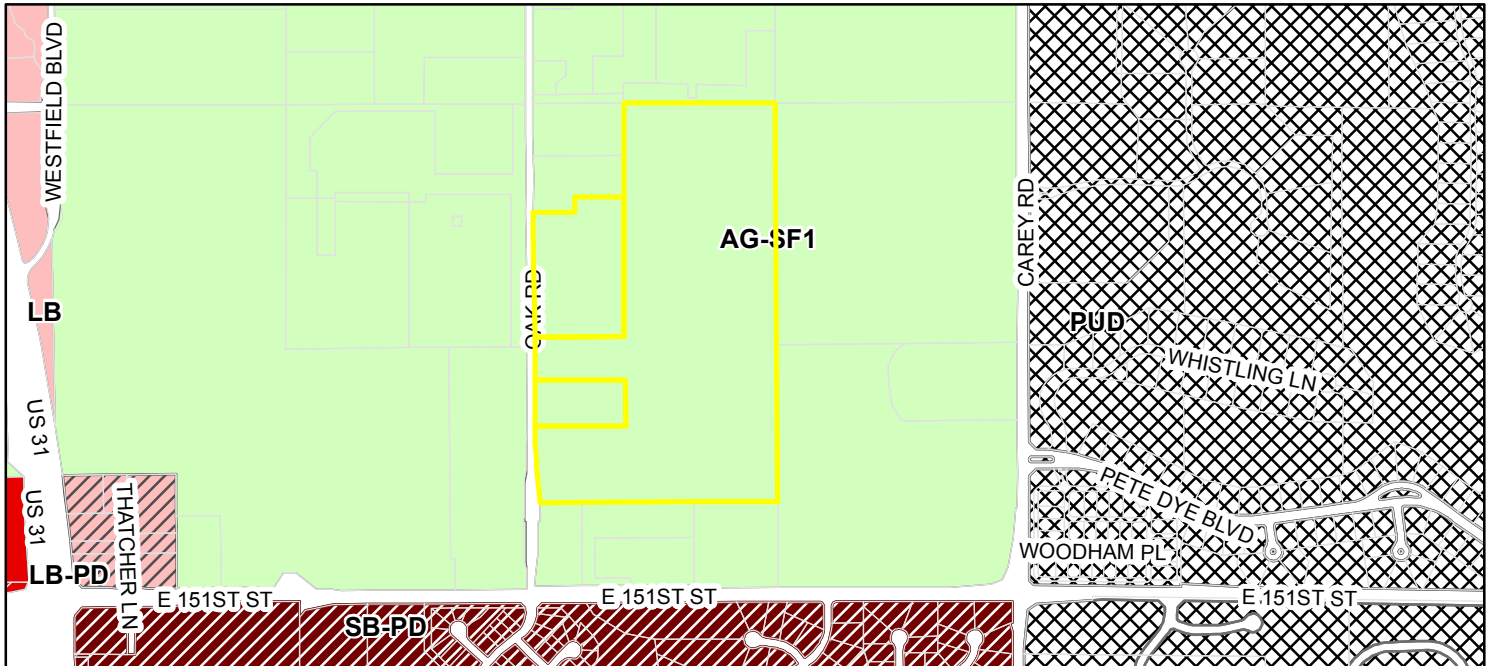


Aerial Location Map

Site



Zoning Map



Zoning

AG-SF1 (Agriculture - Single Family - 1)	GB-PD (General Business - Planned Development)	MF-2 (Multiple Family - 2)	SF-3 (Cluster (Single Family - 3 Cluster))
AG-SF1I (Agriculture - Single Family - 1 In-town)	GO (General Office)	OI (Open Industrial)	SF-4 (Single Family - 4)
EI (Enclosed Industrial)	GO-PD (General Office - Planned Development)	OI-PD (Open Industrial - Planned Development)	SF-4 Pre-1994 (Single Family - 4 Pre-1994)
EI-PD (Enclosed Industrial - Planned Development)	LB (Local Business)	PUD (Planned Unit Development)	SF-5 (Single Family - 5)
GB (General Business)	LB-H (Local Business - Historical)	SB-PD (Special Business - Planned Development)	SF-A (Single Family - Attached)
	LB-PD (Local Business - Planned Development)	SF-2 (Single Family - 2)	
	MF-1 (Multiple Family - 1)	SF-3 (Single Family - 3)	

December 22, 2014

Jay and Terri Park
15525 Oak Road
Carmel, IN 46033
since 1978

across from Acorn Farm Antiques
and bordering Mapleridge to our east
ParkDVMs@aol.com

Jim Langston, City Council members, and fellow neighbors;

I have spoken with a few of the neighbors last week as we received and studied the revised plans for Mapleridge PUD on Oak Road. I think the revisions were well thought out. Changing the location entrance-exit will be much less bothersome with headlights and mail service for Roberston's; the more southern lots near the flood plane were adjusted to account for that it seems; the homes no longer have their backs facing Oak Road; the 4 board dark brown fence echoing Roberston's horse fence on the opposite side keeps neighborhood continuity; the loop drive instead of the private drive on top of the ridge is better—let's hope you can save the tree who's roots will be disrupted by the excavating the loop; the dead end for another connection with the Throgmartin property at the south end will be an asset to hopefully facilitate another exit on 161st St. in the future; the NO trail provision for the North and NW borders behind the neighbor's homes is also good. I am not as concerned as some about the size of the lots, since there is plenty of undevelopable greenspace for taking the dog for a walk, kicking the soccer ball around, or playing Frisbee or throwing and catching a baseball without having to get in the car to go to the park. Both adults and kids have a place to get some exercise after work or school and stay in their own neighborhood.

The one issue that has not yet been addressed at all is the privacy fence for the neighbors in the north and NW corner of the property. Many of us feel that this is an important matter to deter trespassers exploring the "country" around the development. Some homes are very close to the property lines in some cases and an old, broken-down farm fence with a strand of barbed wire rusting away on top will not deter any industrious youngster ready to explore their new surroundings. All of us have out buildings with equipment and attractive properties with ponds that will tempt would-be trespassers. Below is what I have suggested prior to the December 1 Planning meeting:

Privacy fencing, height 6', should be erected to the interior of the 30' Preserved Natural Buffer Yard at the perimeter of Mapleridge beginning at the NE corner of the development and extending the entire north border to the NW corner, then continuing south to the NE corner of the ORL or beyond per request of that lot

owner. The fence should not be installed within the 30' buffer because doing so would destroy existing trees. The tall trees will still be enjoyed by the new homeowners while ensuring that Mapleridge residents respect the privacy of the adjacent existing homeowners such as Joanne Robertson, Dan and Lori Thornberry, Tim Swinney, Jay and Terri Park, as well as Ben and Michelle Baxter. The fence must be maintained by Mapleridge neighborhood association including maintaining a dark brown stain to protect the wood and blend the fence into its more natural surroundings. A dark color allows it to recede from visual notice and will be the least obtrusive for all. We're not asking for an expensive stone or brick wall, just a secure wooden solid panel privacy fence to be maintained and repaired as needed. Nearly every subdivision I've observed has been required to have something similar to appease the neighbors or block traffic noise and view. It needs to extend south to include at least the entire east border of Ben and Michelle Baxter's property in order to keep trespassers from just going around it and exploring. Most of us realize the Baxters will have trespassers attracted to their pond as well as the ponds owned by neighbors to the north. It seems to be an undeniable fact of human nature that this is predictable but can be deterred. It is not that we are un-neighborly, as most of us neighbors have asked and been given permission to have access to each other's properties because we all respect, do no damage and cause no harm.

Please take time to consider this last issue which is very important and is not an unusual request.

Terri Park, DVM

RESOLUTION NO. 15-101

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF WESTFIELD, INDIANA APPROVING CERTAIN MATTERS IN CONNECTION WITH THE FORMATION OF A CERTAIN ECONOMIC DEVELOPMENT AREA

WHEREAS, the City of Westfield Redevelopment Commission (the “Redevelopment Commission”), as the governing body for the City of Westfield Redevelopment Department, pursuant to Indiana Code 36-7-14, as amended (the “Act”), adopted a Declaratory Resolution on December 15, 2014 (the “Declaratory Resolution”), designating the area known as the “Gigabit Broadband Economic Development Area” (the “Economic Development Area”) as an economic development area pursuant to Section 41 of the Act; and

WHEREAS, the Declaratory Resolution approved an economic development plan for the Economic Development Area designated as the “Gigabit Broadband Economic Development Plan—Economic Development Area” (the “Plan”); and

WHEREAS, the Westfield-Washington Area Plan Commission, on January 5, 2015, approved and adopted a resolution (the “Plan Commission Order”) determining that the Declaratory Resolution and the Plan, as amended, conform to the plan of development for the City of Westfield, Indiana (the “City”) and approving the Declaratory Resolution and the Plan.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Westfield, Indiana, as follows:

1. Pursuant to Section 16(a) and (b) of the Act, the Common Council of the City (the “Council”) determines that the Declaratory Resolution and the Plan for the Economic Development Area, as amended, in all respects, conform to the plan of development for the City, and approves in all respects, the Declaratory Resolution, the Plan for the Economic Development Area and the Plan Commission Order.

2. The Council hereby approves the determination that the Economic Development Area is an “economic development area” pursuant to Section 41 of the Act.

3. This Resolution shall be in full force and effect from and after its passage by the Council and approval by the Mayor as required by law.

ADOPTED AND PASSED THIS 12TH DAY OF JANUARY, 2015, BY THE
WESTFIELD COMMON COUNCIL, HAMILTON COUNTY, INDIANA.

WESTFIELD COMMON COUNCIL
Hamilton County, Indiana

WESTFIELD COMMON COUNCIL

Voting For

Voting Against

Abstain

Jim Ake

Jim Ake

Jim Ake

Steve Hoover

Steve Hoover

Steve Hoover

Robert L. Horkay

Robert L. Horkay

Robert L. Horkay

Charles Lehman

Charles Lehman

Charles Lehman

Bob Smith

Bob Smith

Bob Smith

Cindy L. Spoljaric

Cindy L. Spoljaric

Cindy L. Spoljaric

Robert Stokes

Robert Stokes

Robert Stokes

ATTEST:

Cindy Gossard, Clerk-Treasurer
City of Westfield, Indiana

I hereby certify that RESOLUTION 15-101 was delivered to the Mayor of Westfield on the _____ day of _____, 2015, at ____:____.m.

Cindy Gossard, Clerk-Treasurer

I hereby APPROVE Resolution 15-101

this _____ day of _____, 2015

at ____:____.m.

J. Andrew Cook, Mayor

I hereby VETO Resolution 15-101

this _____ day of _____, 2015

at ____:____.m.

J. Andrew Cook, Mayor

I affirm under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. /s/ James T. Crawford, Jr.

This document prepared by James T. Crawford, Jr., Esq. Krieg DeVault LLP, 12800 N. Meridian Street, Suite 300, Carmel, IN 46032, (317) 238-6239.

ORDINANCE NO. 15-01

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF WESTFIELD, INDIANA, AUTHORIZING THE ISSUANCE OF THE CITY OF WESTFIELD, INDIANA TAXABLE ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2015 (METRO FIBERNET PROJECT), AND THE USE OF THE PROCEEDS THEREOF TO SUPPORT METRO FIBERNET PROJECTS, AND AUTHORIZING AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the City of Westfield, Indiana (the “City”), is a municipal corporation and political subdivision of the State of Indiana and by virtue of I.C. 36-7-11.9 and I.C. 36-7-12 (collectively, the “Act”), is authorized and empowered to adopt this ordinance (this “Bond Ordinance”) and to carry out its provisions; and

WHEREAS, the City desires to undertake an economic development project that will assist Metro FiberNet, LLC in constructing facilities to house electronics and to install fiber optic cable that will provide high speed internet, telephone and television services for the City (the “Projects”); and

WHEREAS, the Company will complete the Projects in an area that is in the Gigabit Broadband Economic Development Area; and

WHEREAS, the Company has advised the City of Westfield Economic Development Commission (the “Commission”) and the City that it proposes that the City issue its Taxable Economic Development Revenue Bonds, Series 2015 (Metro FiberNet Project) in an amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000) (the “Series 2015 Bonds”) under the Act and provide the proceeds of such Series 2015 Bonds to the Company for the purpose of financing the Projects as described in the Financing Agreement between the City and the Company dated as of February 1, 2015 (the “Financing Agreement”); and

WHEREAS, the completion of the Projects results in the diversification of industry and the retention and creation of business opportunities in the City; and

WHEREAS, pursuant to I.C. § 36-7-12-24, the Commission published notice of a public hearing (the “Public Hearing”) on the proposed issuance of the Series 2015 Bonds to finance the Projects; and

WHEREAS, on the date specified in the notice of the Public Hearing, the Commission held the Public Hearing on the Projects; and

WHEREAS, the Commission has performed all actions required of it by the Act preliminary to the adoption of this Bond Ordinance and has approved and forwarded to the Common Council the forms of: (1) the Financing Agreement; (2) a Trust Indenture between the City and a trustee to be selected by the Clerk-Treasurer (the “Trustee”) (the “Indenture”); (3) the form of Series 2015 Bonds as set forth in the Indenture; and (4) this Bond Ordinance (the

Financing Agreement, the Indenture, the Series 2015 Bonds, and this Bond Ordinance, collectively, the “Financing Agreements”).

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WESTFIELD, INDIANA, THAT:

1. Findings; Public Benefits. The Common Council hereby finds and determines that the Projects involve the acquisition, construction and equipping of an “economic development facility” as that phrase is used in the Act; that the Projects will increase employment opportunities and increase diversification of economic development in the City, will improve and promote the economic stability, development and welfare in the City, will encourage and promote the expansion of industry, trade and commerce in the City and the location of other new industries in the City; that the public benefits to be accomplished by this Bond Ordinance, in tending to overcome insufficient employment opportunities and insufficient diversification of industry, are greater than the cost of public services (as that phrase is used in the Act) which will be required by the Projects; and, therefore, that the financing of the Projects by the issue of the Series 2015 Bonds under the Act: (i) will be of benefit to the health and general welfare of the City; and (ii) complies with the Act.

2. Approval of Financing. The proposed financing of the Projects by the issuance of the Series 2015 Bonds under the Act, in the form that such financing was approved by the Commission, is hereby approved.

3. Authorization of the Bonds. The issuance of the Series 2015 Bonds, payable solely from revenues and receipts derived from the Financing Agreements, is hereby authorized.

4. Terms of the Bonds. (a) The Series 2015 Bonds, in the aggregate principal amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000) shall (i) be executed at or prior to the closing date by the manual or facsimile signatures of the Mayor and the Clerk-Treasurer of the City; (ii) be dated as of the date of their delivery; (iii) mature on a date not later than twenty-five (25) years after the closing on the Series 2015 Bonds; (iv) bear interest at such rates as determined with the purchaser thereof (the “Purchaser”) (v) be issuable in such denominations as set forth in the Financing Agreements; (vi) be issuable only in fully registered form; (vii) be subject to registration on the bond register as provided in the Indenture; (viii) be payable in lawful money of the United States of America; (ix) be payable at an office of the Trustee as provided in the Indenture; (x) be subject to optional redemption prior to maturity and subject to redemption as otherwise provided in the Financing Agreements; (xi) be issued in one or more series; and (xii) contain such other terms and provisions as may be provided in the Financing Agreements.

(b) The Series 2015 Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit or taxing power of, the City, but shall be special and limited obligations of the City, payable solely from revenues and other amounts derived from the Financing Agreements. Forms of the Financing Agreements are before this meeting and are by this reference incorporated in this Bond Ordinance, and the Clerk-Treasurer of the City is hereby directed, in the name and on behalf of the City, to insert them into the minutes of the Common Council and to keep them on file.

5. Sale of the Bonds. The Mayor and the Clerk-Treasurer of the City are hereby authorized and directed, in the name and on behalf of the City, to sell the Series 2015 Bonds to the Purchaser at such prices as are determined on the date of sale and approved by the Mayor and the Clerk-Treasurer of the City.

6. Execution and Delivery of Financing Agreements. The Mayor and the Clerk-Treasurer of the City are hereby authorized and directed, in the name and on behalf of the City, to execute or endorse and deliver the Financing Agreement, the Indenture, and the Series 2015 Bonds, submitted to the Common Council, which are hereby approved in all respects.

7. Changes in Financing Agreements. The Mayor and the Clerk-Treasurer of the City are hereby authorized, in the name and on behalf of the City, without further approval of the Common Council or the Commission, to approve such changes in the Financing Agreements as may be permitted by the Act, such approval to be conclusively evidenced by their execution thereof.

8. General. The Mayor and the Clerk-Treasurer of the City, and each of them, are hereby authorized and directed, in the name and on behalf of the City, to execute or endorse any and all agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by them, or either of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Bond Ordinance (including the preambles hereto and the documents mentioned herein), the Projects, the issuance and sale of the Series 2015 Bonds, and the securing of the Series 2015 Bonds under the Financing Agreements, and any such execution, endorsement, performance or doing of other things heretofore effected be, and hereby is, ratified and approved.

9. Binding Effect. The provisions of this Bond Ordinance and the Financing Agreements shall constitute a binding contract between the City and the holders of the Series 2015 Bonds, and after issuance of the Series 2015 Bonds this Bond Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Series 2015 Bonds as long as the Series 2015 Bonds or interest thereon remains unpaid.

10. Repeal. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

11. Effective Date. This Bond Ordinance shall be in full force and effect immediately upon adoption and compliance with I.C. § 36-4-6-14.

ADOPTED AND PASSED THIS 26TH DAY OF JANUARY, 2015, BY THE
WESTFIELD COMMON COUNCIL, HAMILTON COUNTY, INDIANA.

WESTFIELD COMMON COUNCIL
Hamilton County, Indiana

WESTFIELD COMMON COUNCIL

Voting For

Voting Against

Abstain

Jim Ake

Jim Ake

Jim Ake

Steve Hoover

Steve Hoover

Steve Hoover

Robert L. Horkay

Robert L. Horkay

Robert L. Horkay

Charles Lehman

Charles Lehman

Charles Lehman

Bob Smith

Bob Smith

Bob Smith

Cindy L. Spoljaric

Cindy L. Spoljaric

Cindy L. Spoljaric

Robert Stokes

Robert Stokes

Robert Stokes

ATTEST:

Cindy Gossard, Clerk-Treasurer
City of Westfield, Indiana

I hereby certify that ORDINANCE 15-____ was delivered to the Mayor of Westfield on the ____ day of _____, 2015, at ____:____.m.

Cindy Gossard, Clerk-Treasurer

I hereby APPROVE Ordinance 15-____
this ____ day of _____, 2015
at ____:____.m.

I hereby VETO Ordinance 15-____
this ____ day of _____, 2015
at ____:____.m.

J. Andrew Cook, Mayor

J. Andrew Cook, Mayor

I affirm under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. /s/ James T. Crawford, Jr.

This document prepared by James T. Crawford, Jr., Esq., Krieg DeVault LLP, 12800 N. Meridian Street, Suite 300, Carmel, IN 46032, (317) 238-6239.

**WESTFIELD REDEVELOPMENT COMMISSION
DECLARATORY RESOLUTION NO. 6-2014**

**RESOLUTION OF THE CITY OF WESTFIELD REDEVELOPMENT COMMISSION
DECLARING AN AREA IN THE CITY OF WESTFIELD AS
AN ECONOMIC DEVELOPMENT AREA AND
APPROVING AN ECONOMIC DEVELOPMENT PLAN FOR SAID AREA**

WHEREAS, the City of Westfield, Indiana (the “City”), desires to undertake an economic development project that will assist the City in a project by Metro FiberNet, LLC, or its subsidiaries, affiliates, successors or assigns, to construct facilities to house electronics and to install fiber optic cable that will provide high speed internet, telephone and television services for the City (collectively, the “Metro FiberNet Project”); and

WHEREAS, the City of Westfield Redevelopment Commission (the “Commission”), governing body of the City of Westfield Department of Redevelopment (the “Department”), pursuant to Indiana Code 36-7-14, as amended (the “Act”), has thoroughly studied an area of the City, which area consists of the possible locations throughout the City of all depreciable personal property consisting of the actual space where new fiber optic cable will be laid due to the Metro FiberNet Project in the City, with such areas designated as the “Gigabit Broadband Allocation Area,” which area is also an economic development area (the “Economic Development Area”); and

WHEREAS, there has been presented to this meeting for consideration and approval of the Commission a development plan (the “Plan”) for the Economic Development Area and entitled “Gigabit Broadband Economic Development Plan—Economic Development Area” which Plan is attached hereto and incorporated herein by reference as Exhibit A; and

WHEREAS, to the extent relevant to the Metro FiberNet Project, the Commission has caused to be prepared maps and plats showing the boundaries of the Economic Development Area, the location of various parcels of property, streets, alleys, and other features affecting the replatting, replanning, rezoning, or redevelopment of the Economic Development Area, and the parts of the Economic Development Area that are to be devoted to public ways, sewerage and other public purposes under the Plan; and

WHEREAS, the Commission has caused to be prepared estimates of the costs of the development projects as set forth in the Plan; and

WHEREAS, the Plan and supporting data were reviewed and considered at this meeting; and

WHEREAS, Section 39 of the Act has been created and amended to permit the creation of “allocation areas” to provide for the allocation and distribution of property taxes for the purposes and in the manner provided in said section; and

WHEREAS, Sections 41 and 43 of the Act have been created to permit the creation of “economic development areas” and to provide that all of the rights, powers, privileges and immunities that may be exercised by this Commission in a redevelopment area or urban renewal area may be exercised in an economic development area, subject to the conditions set forth in the Act; and

WHEREAS, the Commission deems it advisable to apply the provisions of said Sections 39, 41, and 43 of the Act to the Plan and financing of the Plan.

NOW, THEREFORE, BE IT RESOLVED by the City of Westfield Redevelopment Commission, governing body of the City of Westfield Department of Redevelopment, as follows:

1. The Plan for the Economic Development Area promotes significant opportunities for the gainful employment of its citizens and meets other purposes of Sections 2.5, 41 and 43 of the Act, including without limitation benefiting public health, safety and welfare, increasing the economic well-being of the City and the State of Indiana (the “State”), and serving to protect and increase property values in the City and the State.

2. The Plan for the Economic Development Area cannot be achieved by regulatory processes or by the ordinary operation of private enterprise without resort to the powers allowed under Sections 2.5, 41 and 43 of the Act because of lack of local public improvements, including without limitation the cost of the projects contemplated by the Plan.

3. The public health and welfare will be benefited by accomplishment of the Plan for the Economic Development Area.

4. The accomplishment of the Plan for the Economic Development Area will be a public utility and benefit as measured by the attraction or retention of permanent jobs, an increase in the property tax base, improved diversity of the economic base and other similar public benefits.

5. The Plan for the Economic Development Area conforms to other development and redevelopment plans for the City.

6. The Commission pursuant to the requirements of Section 39(b) of the Act, after examining the Plan including the Findings of Fact contained therein attached hereto as Exhibit A, and taking testimony, further finds that the adoption of the allocation provisions of the Act will result in new property taxes in the Allocation Area (as hereinafter defined) that would not have been generated but for the adoption of the allocation provisions.

7. In support of the findings and determinations set forth in Sections 1 through 5 above, the Commission hereby adopts the specific findings set forth in the Plan.

8. The Plan does not recommend any specific property acquisition and the Department does not at this time propose to acquire any specific parcel of land or interests in land within the boundaries of the Economic Development Area. At the time the Department proposes to acquire specific parcels of land, the required procedures for amending the Plan under

the Act will be followed, including notice by publication and to affected property owners and a public hearing.

9. The Commission finds that no residents of the Economic Development Area will be displaced by any project resulting from the Plan, and therefore finds that it does not need to give consideration to transitional and permanent provisions for adequate housing for the residents.

10. The Plan is hereby in all respects approved, and the secretary of the Commission is hereby directed to file a certified copy of the Plan with the minutes of this meeting. The Economic Development Area is hereby designated as an "economic development area" under Section 41 of the Act.

11. The entire Economic Development Area is hereby designated as an "allocation area" pursuant to Section 39 of the Act for purposes of the allocation and distribution of property taxes for the purposes and in the manner provided by said Section. Any real property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in said allocation area shall be allocated and distributed as follows:

Except as otherwise provided in said Section 39, the proceeds of taxes attributable to the lesser of the assessed value of the property for the assessment date with respect to which the allocation and distribution is made, or the base assessed value, shall be allocated to and when collected paid into the funds of the respective taxing units. Except as otherwise provided in said Section 39, property tax proceeds in excess of those described in the previous sentence shall be allocated to the redevelopment district and when collected paid into an allocation fund for said allocation area that may be used by the redevelopment district to do one or more of the things specified in Section 39(b)(3) of the Act, as the same may be amended from time to time. Said allocation fund may not be used for operating expenses of the Commission. Except as otherwise provided in the Act, before July 15 of each year, the Commission shall take the actions set forth in Section 39(b)(4) of the Act.

12. The foregoing allocation provision shall apply to all of the Economic Development Area and shall expire on the date that is twenty-five (25) years after the date on which the first obligation is incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues. The base assessment date for the allocation area shall be March 1, 2014.

13. Said allocation area is hereby designated as the "Gigabit Broadband Allocation Area," and said allocation fund is hereby designated as the "Gigabit Broadband Allocation Fund."

14. Pursuant to Section 39.3 of the Act, the Commission designates as a "designated taxpayer" Metro FiberNet, LLC and its successors or assigns or any affiliate of Metro FiberNet, LLC and its successors or assigns (the "Designated Taxpayer").

15. The Commission hereby modifies the definition of property taxes in IC 36-7-14-39(a) for the purposes of including taxes imposed under IC 6-1.1 on the depreciable personal property of the designated taxpayer described above and all other depreciable property located

and taxable on the designated taxpayer's site of operations in the Allocation Area. This allocation provision shall expire on the date that is twenty-five (25) years after the date on which the first obligation is incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues.

16. The Commission finds that:

(a) The taxes to be derived from the Designated Taxpayer's depreciable personal property in the allocation area and all other depreciable property located and taxable on the designated taxpayer's site of operations within the allocation area in excess of the taxes attributable to the base assessed value of that personal property, are needed to pay debt service on bonds issued under IC 36-7-14-25.1, or to make payments or to provide security on leases payable under IC 36-7-14-25.2, in order to provide local public improvements for the particular allocation area;

(b) The taxpayer's property in the allocation area consists primarily of industrial, manufacturing, warehousing, research and development, processing, distribution, or transportation related projects; and

(c) The taxpayer's property in the allocation area does not consist primarily of retail, commercial or residential projects.

17. The officers of the Commission are hereby directed to make any and all required filings with the Indiana Department of Local Government Finance and the Hamilton County Auditor in connection with the creation of the allocation area.

18. The provisions of this Resolution shall be subject in all respects to the Act and any amendments thereto.

19. This Resolution, together with any supporting data and together with the Plan, shall be submitted to the Westfield-Washington Advisory Plan Commission (the "Plan Commission") and the Common Council of the City of Westfield (the "Common Council") as provided in the Act, and if approved by the Plan Commission and the Common Council, shall be submitted to a public hearing and remonstrance as provided by the Act, after public notice as required by the Act.

[Remainder of page intentionally left blank.]

ADOPTED AND PASSED THIS 15th DAY OF DECEMBER, 2014,
BY A VOTE OF 4 IN FAVOR AND 0 OPPOSED, BY THE
WESTFIELD REDEVELOPMENT COMMISSION, HAMILTON COUNTY, INDIANA.

By: Joseph Plankis
Joseph Plankis, President

By: Joseph E. Ingalls
Joseph E. Ingalls, Vice President

By: _____
Scott Robison, Secretary

By: Jill Doyle
Jill Doyle, Member

By: Doug Holz
Doug Holz, Member

ATTEST:

Matthew S. Skelton
Matthew S. Skelton, Esq.

This resolution prepared by:

James T. Crawford, Jr., Esq.
Krieg DeVault LLP
12800 North Meridian Street, Suite 300
Carmel, IN 46032
317.238.6239

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. /s/ James T. Crawford, Jr.

EXHIBIT A

**GIGABIT BROADBAND ECONOMIC DEVELOPMENT PLAN –
ECONOMIC DEVELOPMENT AREA
INCLUDING FINDINGS OF FACT**

CITY OF WESTFIELD, INDIANA

Gigabit Broadband Economic Development Area

Economic Development Plan

TABLE OF CONTENTS

REQUIRED FINDING OF FACTS TO SUPPORT THE STATUTORY REQUIREMENTS.....	2
FACTS.....	2
CITY OF WESTFIELD REDEVELOPMENT COMMISSION	3
THE PROCESS OF DESIGNATING AN ECONOMIC DEVELOPMENT AREA	5
EXAMPLES OF HOW THE CITY INTENDS TO MEET THE STATUTORY FINDINGS	6
FACTUAL REPORT IN SUPPORT OF FINDINGS CONTAINED IN RESOLUTION NO. 6-2014.....	8

**REQUIRED FINDING OF FACTS TO
SUPPORT THE STATUTORY REQUIREMENTS**

FACTS

1. The Economic Development Plan (the “Plan”) promotes significant opportunities for gainful employment of its citizens, attracts new major business enterprises to the City of Westfield, Indiana (the “City”), retains and expands significant business enterprises existing in the boundaries of the City, and meets other statutory purposes, as set forth in Indiana Code Sections 36-7-14-2.5 and 36-7-14-43.
2. The Plan for the Gigabit Broadband Economic Development Area (the “EDA”) cannot happen by regulatory process or by the ordinary operation of private enterprise because of the lack of public infrastructure or other similar conditions thereby necessitating the establishing of an allocation area to assist in the funding of the required infrastructure.
3. The public health and welfare will benefit by the accomplishment of the Plan for the EDA.
4. The achievement of the Plan for the EDA will constitute a public utility and will benefit as measured by the attraction or retention of permanent jobs, an increase in the property values, thus equating to increased assessed value (which herein is defined as “assessed value”), improved diversity of the economic base through the enhanced mix of property and other public benefits and the expansion of technology and high speed internet services to a significant portion of the City, which is in direct alignment with the goals of the City.
5. The Plan for the EDA conforms to other development and redevelopment plans for the City.
6. A representative of Metro FiberNet, LLC testified at the December 15, 2014 Redevelopment Commission meeting that building out a fiber optic system such as the one being proposed for the Metro FiberNet Project is extremely capital intensive and Metro FiberNet, LLC would not undertake the Project without the establishment of the Allocation Area and the resultant availability of TIF increment to assist with the cost of building out the Project.

ECONOMIC DEVELOPMENT PLAN
GIGABIT BROADBAND ECONOMIC DEVELOPMENT AREA
CITY OF WESTFIELD REDEVELOPMENT COMMISSION
FOR THE
CITY OF WESTFIELD

Purpose

This document is the City Economic Development Plan (the “Plan”) for the Gigabit Broadband Economic Development Area (the “EDA”) contained within the City. This document is intended to be approved by the Westfield City Plan Commission, the Westfield City Council and the City of Westfield Redevelopment Commission in conformance with IC-37-14.

Introduction

The Westfield area economic base was developed for the home of corporate headquarters, back office operations, high tech manufacturing, distribution operations, youth sports industry, logistics, technology driven businesses and high quality living. The Westfield area is where the talent lives and works. The area has a well-diversified base of employers headed by IMMI (550), Standard Locknut (167), Porter Engineer Systems (145) and Custom Concrete (136). Hamilton County is the largest suburban employment and residential hub in Central Indiana. The unemployment rate has remained lower than state and national rates throughout the recession. The current employment in Hamilton County is approximately 112,000.

Westfield was founded in 1834 and was incorporated as a town in 1848. In 2008, Westfield was incorporated as a city and its population is about 32,000 (2012). While Westfield has experienced rapid population growth since 1990, in recent years, it has suffered from a significant slowdown in its economy. New business growth, housing permits and new home starts stalled and city revenue growth was flat for several years. During the slowdown, Westfield constructed a \$45 million outdoor portion of the 400 acre Grand Park and is recruiting quality shops, restaurants, hotels, businesses and other commercial development to increase and diversify its tax base. The City Council has recently approved a \$25 million plan for the private/public development of an indoor facility at Grand Park. The indoor arena will bring year-round activity to Grand Park that will foster economic development and grow the tax base. Also, to foster quality growth, Westfield has embarked on major downtown revitalization projects. Stakeholders continue to expect and demand high quality infrastructure, community services,

education, businesses, jobs, housing and technology investments to meet their quality of life expectations in Westfield.

To remain competitive and continue to move forward in achieving its goal for Westfield to be a destination and grow its tax base, the need for sufficient bandwidth and high speed telecommunications is essential. The Google like fiber Gigabit City project proposed by Metro FiberNet, LLC to bring Gigabit services to the premise will provide Westfield 21st century communications infrastructure that will facilitate the efforts to enhance the opportunities for the existing workforce and businesses, as well as assist in the attraction of new enterprises and enhance the overall quality of life. .

Description of the Area

The Area is located within the boundaries of Westfield. (See Appendix A for the detailed maps of the Area. Yellow lines represent projected locations of Metro FiberNet overhead infrastructure and blue lines represent projected locations of Metro FiberNet underground infrastructure.) It is the intention of this Plan to create an allocation area within the Area that consists solely of all of the personal property of Metro FiberNet, which personal property consists of fiber optic cable and associated fiber equipment that will be placed either on poles or underground, depending upon where the existing utilities lay. The allocation area will, by definition, be where the personal property of Metro FiberNet exists, and can move when the fiber optic cable is moved. The designation of the Area is to delineate where the fiber optic cable and associated fiber equipment may be located, but is not in and of itself the allocation area.

Project Description

Metro FiberNet Potential Project List Within TIF Area / EDA

The personal property to be captured as the allocation area will consist of:

1. New fiber optic cable and associated fiber equipment installed by Metro FiberNet ;
2. Pre-cast concrete equipment storage building and fiber cabinets that are classified as personal property in locations to be determined; and
3. Electronic and optical equipment within the equipment storage building and cabinets.

THE PROCESS OF DESIGNATING AN ECONOMIC DEVELOPMENT AREA

The following represents a general narrative summary of the sequence of actions to be undertaken in support of the designation of the EDA. Each step will be reviewed by the legal staff of the City of Westfield, by Bond Counsel and the Financial Advisor.

After formation of the Plan, it will be submitted to the Redevelopment Commission of the City of Westfield for consideration and approval. Upon presentation and discussion, the Redevelopment Commission may approve the Plan in its entirety, make modifications to the Plan and approve the Plan as amended, or reject the Plan and the designation of an EDA.

Declaratory Resolution

If the Redevelopment Commission desires to approve the Plan, it will pass a Declaratory Resolution of the Redevelopment Commission. The Declaratory Resolution declares the intent of the Redevelopment Commission to create an EDA.

Plan Commission Review

After passing the Declaratory Resolution, the Redevelopment Commission must then submit the Plan to the City of Westfield Plan Commission for review to assure that it conforms to the plan of development for the City. The Plan Commission's task is to affirm that the Plan conforms to the plan of development of each jurisdiction as contained in the Comprehensive Plan. The Plan can propose an alteration of land use or zoning to any of the jurisdictions in response to a specific economic development proposal, but if it does so, such alteration or rezoning must be approved by the Plan Commission. This Plan was developed in compliance with the current Comprehensive Plan and no deviation is anticipated.

City Council Approval

Upon receiving approvals of the Redevelopment Commission and the Plan Commission, the Plan must be submitted to the City of Westfield Common Council for approval before it can be implemented. The City Council may reject the Plan or approve the Plan. The City Council also must approve the Redevelopment Commission's determination that the Area is an economic development area under the redevelopment statute.

Notice of Public Hearing and Tax Impact Statement

Upon receipt of approval by the City Council, the Redevelopment Commission must publish a notice of the adoption of the Declaratory Resolution and the date upon which the Redevelopment Commission will conduct a public hearing thereon, which must be no sooner than 10 days following the publication of the notice. The Redevelopment Commission also must deliver a copy of the notice, along with a statement disclosing the impact of the Area, to each taxing unit that is wholly or partially located in the Area.

Confirmatory Resolution

The Redevelopment Commission must then conduct the public hearing and pass a Confirmatory Resolution which confirms the Redevelopment Commission's intention to designate the EDA as set forth in the Plan. The Redevelopment Commission is not required to take this action, but may consider whether the Area designation is still appropriate. If the Redevelopment Commission passes the Confirmatory Resolution, the EDA is then finally declared and designated.

Bond Counsel for the project will assure that all necessary and appropriate filings and administrative actions are taken. It is, therefore, important that the various agencies, bodies, elected officials and the general public understand the limitations which are imposed on subsequent decision and actions by these various agencies and bodies.

EXAMPLES OF HOW THE CITY INTENDS TO MEET THE STATUTORY FINDINGS

Metro FiberNet

The fiber optic system planned by Metro FiberNet (and its affiliated companies including, but not limited to, Metro FiberNet, LLC) will enhance economic development and improve the overall financial health of Westfield by enhancing efforts to expand and diversify the economy by attracting 21st century businesses which rely upon technology and require sufficient bandwidth in order to locate in Westfield. Also, it will directly create 8 to 10 jobs with an annual payroll of approximately \$ 400,000 to \$500,000 within the Westfield Area.

It is crucial to the long term fiscal health and quality of life of Westfield that we are positioned to attract these technology driven businesses especially those in logistics, advanced manufacturing, technology centers, corporate and back office operations. The local workforce is trained in these vocations and additional training will improve skill levels to a degree commensurate with those required in the aforementioned industries.

Financing the Projects

It is the intention of the Redevelopment Commission to create a Tax Incremental Finance ("TIF") District and to capture the incremental depreciable personal property within the EDA in order to finance the necessary projects. The TIF District must be established by March 1, 2015 so that the Redevelopment Commission may receive funds in 2015. If this does not occur, the already formed Redevelopment Commission will not be able to meet the needs that are projected to occur shortly.

It will be necessary to issue bonds sometime in the near future, based on the incremental *ad valorem* property taxes allocated under IC 36-7-14-39, in order to raise money for completion of the Projects in the Area.

The financing will be used for part, or all, of the following:

- (1) All reasonable and necessary architectural, engineering, and construction, equipment, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and development of the Project or the issuance of bonds;
- (2) Interest on, and principal of, the bonds issued by the Commission for the project; and
- (3) Expenses that the Commission is required or permitted to pay under IC 8-23-17.

Metro FiberNet has estimated the total cost of their project within the City of Westfield will about \$10 to \$15 million.

Based upon the estimated investment of depreciable personal property to be located within the various taxing districts, Metro FiberNet, LLC would be requesting assistance through the issuance of TIF Revenue Bonds by the City Westfield in an estimated aggregate amount not to exceed \$2 million with a term not to exceed 25 years. The Bonds, when issued, would be paid solely from the incremental revenues generated within the Area and would not cause a general or moral obligation on the part of the Redevelopment Commission or the City.

Amendment of the Plan

By following the procedures specified in IC 36-7-14-15 the Redevelopment Commission may amend the Plan for the Area.

**FACTUAL REPORT IN SUPPORT OF FINDINGS
CONTAINED IN RESOLUTION NO. 6-2014**

1. The Plan for the Gigabit Broadband Economic Development Area (the "Area") will promote significant opportunities for growth and the gainful employment of citizens of the City by providing the means to extend state of the art fiber optic lines and high speed internet services to the Area. This 21st century infrastructure is necessary to attract employers engaged in quality high technology operations, back office, corporate offices, corporate headquarters, sports related industries, logistics, hotels and residential development. This infrastructure will improve Westfield's ability to attract employers as follows:
 - A. To locate in the Area, entities require sites that are shovel ready with all required infrastructure, including Gigabit broadband services. This Plan provides for the public funding of the fiber optic lines and electronic equipment required to bring high speed (Gigabit) internet services throughout the Area.
 - B. The Plan provides for these services to be brought to publicly owned sites that are developed or will be developed as shovel ready sites suitable for development by entities that are engaged in logistics, back office operations, corporate offices, high technology, health care and quality living.
2. The Plan:
 - A. Will promote significant opportunities for the gainful and quality employment of the citizens of the City;
 - B. Is likely to attract major new business and home grown enterprises as a result of the existence of fiber optic broadband services (with Gigabit services to the home);
 - C. Enables the use of public funding to guide infrastructure design and construction and thus development in the Area to promote basic employment and mixed uses of the land, to an extent individual property owners would not otherwise attain.
 - D. Benefits the public health, safety, morals and welfare of the citizens of Westfield, the County and State as follows: The Plan, when fully implemented, will add high speed (Gigabit) broadband services that are required in the transmission of medical records. Development of this 21st century infrastructure will permit the City to approach land use development, public services, resources and public investments in a positive manner; and

- E. Increases the economic well being of the City and the State of Indiana in direct alignment with elected officials, at every level of government, and local stakeholders public statements of promoting economic development opportunity in Indiana through the extension of 21st century broadband services throughout the state.
- 3. The planning and development of the Area will benefit the public health, safety morals and welfare; it will increase the economic well being of the City and serve to protect and increase property values in both the City and the State of Indiana.
 - A. The Plan will create new employment opportunities;
 - B. The Plan will diversify the local economy and add employment opportunities that do not now exist and cannot exist without the addition of 21st century Gigabit broadband; and
 - C. Fiber optic Gigabit broadband services are not available in vacant land within the Area. The Plan promotes development throughout the Area.
- 4. The Plan for the Area cannot be achieved by the regulatory processes or by ordinary operation of private enterprise without resorting to IC 36-7-14 (the Redevelopment statutes) because of the lack of public improvements, the existence of geological impediments to industrial development and multiple ownership of land.
- 5. The accomplishment of the Plan for the Area will be of public utility benefit, for the following reasons. First, it is estimated that the full development of the Area, pursuant to the Plan will allow for the immediate attraction of approximately 8 to 10 permanent high tech jobs in the Westfield Area by January 2016. The foregoing estimate is based upon representation of Metro FiberNet, LLC. Secondly, current employers in Westfield have indicated a need for updated fiber optic Gigabit broadband services to transmit engineering, medical records, graphics, books and technical information. The expectation is that hundreds of local jobs will be preserved, retained and attracted as a result of implementation of the Plan. This information has been developed through discussions with a number of community stakeholders. It is also estimated that, when fully developed in accordance with the Plan, the assessed value for Depreciable Personal Property will be increased by approximately \$15 million within the Westfield Area. The foregoing estimate is based upon representations of Metro FiberNet, LLC.
- 6. The Commission believes that the TIF District will generate, over time, along with federal, state and local funds, sufficient monies to fully implement the Plan.

7. Metro FiberNet, LLC has represented to the City that building out a fiber optic system such as the one being proposed for the Metro FiberNet Project is extremely capital intensive and Metro FiberNet, LLC would not undertake the Project without the establishment of the Allocation Area and the resultant availability of TIF increment to assist with the cost of building out the Project.

APPENDIX A

PROJECTED LOCATIONS OF THE METRONET INFRASTRUCTURE



Yellow lines represent projected locations of Metro FiberNet overhead infrastructure and blue lines represent projected locations of Metro FiberNet underground infrastructure.

RESOLUTION NO. 1-2015

A RESOLUTION APPROVING AND AUTHORIZING CERTAIN ACTIONS AND PROCEEDINGS WITH RESPECT TO CERTAIN PROPOSED ECONOMIC DEVELOPMENT REVENUE BONDS

WHEREAS, the City of Westfield, Indiana (the "City"), is authorized by I.C. 36-7-11.9 and I.C. 36-7-12 (collectively, the "Act") to issue revenue bonds for the financing of economic development facilities, and provide the proceeds of the revenue bond issue to another entity to finance or refinance the acquisition, construction, renovation, installation and equipping of said facilities; and

WHEREAS, Metro FiberNet LLC (the "Company"), its parent or subsidiary thereof, desires to finance the construction of facilities to house electronics and to install fiber optic cable that will provide high speed internet, telephone and television services to the City (the "Projects"); and

WHEREAS, the Company will complete the Projects in an area that is in or will be in the Gigabit Broadband Economic Development Area; and

WHEREAS, the Company has advised the City of Westfield Economic Development Commission (the "Commission") and the City that it proposes that the City issue its Taxable Economic Development Revenue Bonds, Series 2015 (Metro FiberNet Project) in an amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000) (the "Series 2015 Bonds") under the Act and provide the proceeds of such Series 2015 Bonds to the Company for the purpose of financing the Projects; and

WHEREAS, the Commission has studied the Projects and the proposed financing of the Projects and their effect on the health and general welfare of the City and its citizens; and

WHEREAS, the completion of the Projects results in the diversification of industry, the creation of approximately 8 to 10 new jobs, with a payroll of approximately \$400,000 to \$500,000, and the creation and retention of business opportunities in the City; and

WHEREAS, pursuant to I.C. § 36-7-12-24, the Commission published notice of a public hearing (the "Public Hearing") on the proposed issuance of the Bonds to finance the Projects; and

WHEREAS, the Commission held the Public Hearing on the Projects on January 5, 2015.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF WESTFIELD ECONOMIC DEVELOPMENT COMMISSION AS FOLLOWS:

SECTION 1. The Commission hereby finds, determines, ratifies and confirms that the diversification of industry, the retention and creation of business opportunities and the retention and creation of opportunities for gainful employment within the jurisdiction of the City is

desirable, serves a public purpose, and is of benefit to the health and general welfare of the City; and that it is in the public interest that the City take such action as it lawfully may to encourage the diversification of industry, the retention and creation of business opportunities, and the retention and creation of opportunities for gainful employment within the jurisdiction of the City.

SECTION 2. The Commission hereby determines that the Projects will not have a material adverse competitive effect on any similar facilities already constructed or operating in or near the City.

SECTION 3. The Commission hereby approves the report with respect to the Projects presented at this meeting. The Secretary of this Commission is directed to submit such report to the executive director or chairman of the plan commission of the City.

SECTION 4. The Commission finds, determines, ratifies and confirms that the issuance and sale of the Series 2015 Bonds in an aggregate amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000), and providing the proceeds of the Series 2015 Bonds to the Company for the financing of the Projects, will be of benefit to the health and general welfare of the City, will serve the public purposes referred to above in accordance with the Act, and fully comply with the Act.

SECTION 5. The financing of the Projects through the issuance of the Series 2015 Bonds, in an amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000), is hereby approved.

SECTION 6. The Commission hereby approves the terms of the following documents in the form presented at this meeting: (i) a Financing Agreement between the City and the Company; (ii) a Trust Indenture, between the City and [Trustee], as trustee; (iii) the Bonds as set forth in the Trust Indenture; and (iv) an Ordinance of the Common Council of the City.

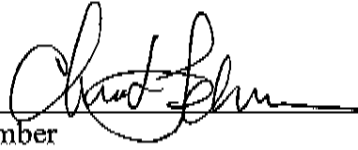
SECTION 7. Any officer of the Commission is hereby authorized and directed, in the name and on behalf of the Commission, to execute any and all other agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by him to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this resolution (including the preambles hereto and the documents mentioned herein), the Projects and the issuance and sale of the Bonds, and any such execution, performance, approval or doing of other things heretofore effected be, and hereby is, ratified and approved.

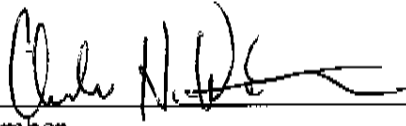
SECTION 8. The Secretary of this Commission shall transmit this resolution, together with the forms of the documents approved by this resolution, to the Common Council of the City.

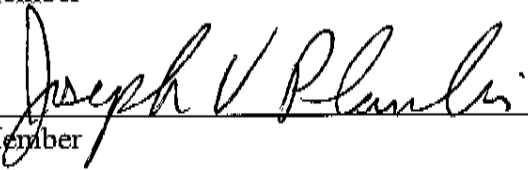
SECTION 9. This resolution shall be in full force and effect upon adoption.

Adopted this 5th day of January, 2015.

CITY OF WESTFIELD ECONOMIC
DEVELOPMENT COMMISSION


Member


Member


Member

This document prepared by James T. Crawford, Jr., Esq. Krieg DeVault LLP, 12800 N. Meridian Street, Suite 300, Carmel, IN 46032, (317) 238-6239.

TRUST INDENTURE
BETWEEN
CITY OF WESTFIELD, INDIANA
AND
[TRUSTEE],
as Trustee

\$2,500,000
CITY OF WESTFIELD, INDIANA
TAXABLE ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2015
(METRO FIBERNET PROJECT)

Dated as of February 1, 2015

Table of Contents

ARTICLE I. DEFINITIONS	4
Section 1.1. Terms Defined.....	4
Section 1.2. Rules of Interpretation	6
Section 1.3. Exhibits	7
ARTICLE II. THE BONDS.....	8
Section 2.1. Authorized Amount of Bonds.....	8
Section 2.2. Issuance of the Bonds	8
Section 2.3. Payment on the Bonds.....	9
Section 2.4. Execution: Limited Obligation.....	10
Section 2.5. Authentication.....	10
Section 2.6. Form of the Bonds.....	10
Section 2.7. Delivery of Bonds	16
Section 2.8. Mutilated, Lost, Stolen or Destroyed Bonds.....	16
Section 2.9. Registration and Exchange of Bonds: Persons Treated as Owners	16
ARTICLE III. APPLICATION OF THE BOND PROCEEDS.....	18
Section 3.1. Deposit of Bond Funds	18
ARTICLE IV. REVENUE AND FUNDS	19
Section 4.1. Source of Payment of the Bonds.....	19
Section 4.2. Bond Fund.....	19
Section 4.3. Project Fund	20
Section 4.4. TIF Revenues	21
Section 4.5. Rebate Fund	21
Section 4.6. Trust Funds	21
Section 4.7. Investment.....	21
ARTICLE V. REDEMPTION OF BONDS BEFORE MATURITY	22
Section 5.1. Redemption Dates and Prices--Optional Redemption	22
Section 5.2. Notice of Redemption	22
Section 5.3. Cancellation	22
Section 5.4. Redemption Payments.....	22
Section 5.5. Partial Redemption of Bonds	23
ARTICLE VI. GENERAL COVENANTS.....	24
Section 6.1. Payment of Principal and Interest	24
Section 6.2. Performance of Covenants.....	24
Section 6.3. Filing of Indenture and Security Instruments	24
Section 6.4. List of Bondholders.....	25
Section 6.5. Rights Under Financing Agreement	25
Section 6.6. Investment of Funds.....	25
Section 6.7. Non-presentment of Bonds	25

ARTICLE VII. DEFAULTS AND REMEDIES	27
Section 7.1. Events of Default	27
Section 7.2. Remedies: Rights of Bondholders.....	27
Section 7.3. Right of Bondholders to Direct Proceedings	28
Section 7.4. Application of Moneys.....	28
Section 7.5. Remedies Vested In Trustee	29
Section 7.6. Rights and Remedies of Bondholders	29
Section 7.7. Termination of Proceedings	29
Section 7.8. Waivers of Events of Default.....	29
ARTICLE VIII. THE TRUSTEE	31
Section 8.1. Acceptance of the Trusts.....	31
Section 8.2. Fees, Charges and Expenses of the Trustee	33
Section 8.3. Notice to Bondholders if Default Occurs.....	33
Section 8.4. Intervention by Trustee	33
Section 8.5. Successor Trustee.....	34
Section 8.6. Resignation by the Trustee.....	34
Section 8.7. Removal of the Trustee	34
Section 8.8. Appointment of Successor Trustee by the Bondholders; Temporary Trustee	34
Section 8.9. Concerning Any Successor Trustees.....	34
Section 8.10. Trustee Protected in Relying Upon Resolutions, etc.	35
ARTICLE IX. SUPPLEMENTAL INDENTURES	36
Section 9.1. Supplemental Indentures Not Requiring Consent of Bondholders	36
Section 9.2. Supplemental Indentures Requiring Consent of Bondholders.....	36
ARTICLE X. AMENDMENTS TO THE FINANCING AGREEMENT	38
Section 10.1. Amendments etc., to Financing Agreement Not Requiring Consent of Bondholders.....	38
Section 10.2. Amendments etc., to Financing Agreement Requiring Consent of Bondholders.....	38
ARTICLE XI. MISCELLANEOUS	39
Section 11.1. Satisfaction and Discharge.....	39
Section 11.2. Application of Trust Money.....	39
Section 11.3. Consents, etc., of Bondholders.....	39
Section 11.4. Limitation of Rights	40
Section 11.5. Severability	40
Section 11.6. Notices	41
Section 11.7. Counterparts	41
Section 11.8. Applicable Law	41
Section 11.9. Immunity of Officers and Directors.....	41
Section 11.10. Holidays	42

TRUST INDENTURE

THIS TRUST INDENTURE dated as of the 1st day of February, 2015, by and between the CITY OF WESTFIELD, INDIANA (the “Issuer”), a municipal corporation organized and existing under the laws of the State of Indiana and [TRUSTEE], a [national bank association duly organized under the laws of the United States] and authorized to accept and execute trusts of the character herein, having a corporate trust office in the city of Indianapolis, Indiana, as trustee (the “Trustee”);

WITNESSETH:

WHEREAS, IC 36-7-11.9 and 12, as supplemented and amended, authorizes and empowers the Issuer to issue revenue bonds and to use the proceeds therefrom for the purpose of financing economic development facilities and vests such Issuer with powers that may be necessary to enable it to accomplish such purposes; and

WHEREAS, in accordance with the provisions of the Act, the Issuer has induced Metro FiberNet LLC (the “Company”) to proceed with the Projects in the jurisdiction of the Issuer by offering to issue its Taxable Economic Development Revenue Bonds, Series 2015 (Metro FiberNet Project) in the aggregate principal amount \$2,500,000, pursuant to this Trust Indenture and to provide the proceeds thereof to the Company pursuant to the Financing Agreement of even date herewith (the “Financing Agreement”) for the purpose of paying the costs of the Projects (as defined herein); and

WHEREAS, the execution and delivery of this Indenture and the issuance of revenue bonds under the Act as herein provided have been in all respects duly and validly authorized by proceedings duly passed on and approved by the Issuer; and

WHEREAS, after giving notice in accordance with the Act and IC 5-3-1-4, the Westfield Economic Development Commission held a public hearing on behalf of the Issuer, and upon finding that the Projects and the proposed financing thereof (i) will create or retain employment opportunities in and near the City of Westfield, Indiana; (ii) will benefit the health and general welfare of the citizens of the City of Westfield, Indiana; and (iii) will comply with the purposes and provisions of the Act, adopted a resolution approving the proposed financing; and

WHEREAS, the Act provides that such Bonds may be secured by a trust indenture between the Issuer and a corporate trustee; and

WHEREAS, the Financing Agreement provides for the use of the proceeds of the Bonds by the Company to complete the Projects, and, pursuant to this Indenture, the Issuer will assign certain of its rights under the Financing Agreement to the Trustee; and

WHEREAS, pursuant to this Indenture, the Bonds shall be payable solely from payments from TIF Revenues and proceeds from the Bonds; and

WHEREAS, the execution and delivery of this Trust Indenture, and the issuance of the Bonds hereunder, have been in all respects duly and validly authorized by an ordinance duly passed and approved by the Issuer; and

WHEREAS, IC 36-7-14 provides that a redevelopment commission of an issuer may pledge certain incremental property taxes to pay (known herein as TIF Revenues), in whole or in part, amounts due on the Bonds; and

WHEREAS, the Redevelopment Commission has, by resolution, dedicated and pledged to the Issuer, TIF Revenues to be applied to the repayment of the Bonds; and

WHEREAS, the Bonds and the Trustee's certificate of authentication to be endorsed thereon are all to be substantially in the form provided in this Indenture; and

NOW, THEREFORE, THIS INDENTURE WITNESSETH: That in order to secure the payment of the principal of and interest on the Bonds to be issued under this Indenture according to their tenor, purport and effect, and in order to secure the performance and observance of all the covenants and conditions herein and in said Bonds contained, and in order to declare the terms and conditions upon which the Bonds are issued, authenticated, delivered, secured and accepted by all persons who shall from time to time be or become holders thereof, and for and in consideration of the mutual covenants herein contained, of the acceptance by the Trustee of the trust hereby created, and of the purchase and acceptance of the Bonds by the holders or obligees thereof, the Issuer has executed and delivered this Indenture, and by these presents does hereby convey, grant; assign, pledge and grant a security interest in, unto the Trustee, its successor or successors and its or their assigns forever, with power of sale, all and singular, the property, real and personal hereinafter described (the "Trust Estate"):

GRANTING CLAUSES

DIVISION I

All right, title and interest of the Issuer in and to the Financing Agreement (except the rights reserved to the Issuer therein);

DIVISION II

All right, title and interest of the Issuer in and to the TIF Revenues (such pledge to be effective as set forth in IC 5-1-14-4 and IC 36-7-14-39 without filing or recording of this Indenture or any other instrument);

DIVISION III

All moneys and securities from time to time held by the Trustee under the terms of this Indenture (except Qualified Investments deposited with the Trustee pursuant to Section 11.1 hereof) and any and all other real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned, or transferred as and for additional security hereunder by the Issuer or by anyone in its behalf, or

with their written consent to the Trustee which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof;

TO HAVE AND TO HOLD the same unto the Trustee, and its successor or successors and its or their assigns forever;

IN TRUST, NEVERTHELESS, upon the terms and trusts herein set forth, to secure the payment of the Bonds to be issued hereunder and the interest payable thereon, and to secure also the observance and performance of all the terms, provisions, covenants and conditions of this Indenture, and for the equal and ratable benefit and security of all and singular the holders of all Bonds issued hereunder, without preference, priority or distinction as to lien or otherwise, except as otherwise hereinafter provided, of any one Bond or as between principal and interest, and it is hereby mutually covenanted and agreed that the terms and conditions upon which the Bonds are to be issued, authenticated, delivered, secured and accepted by all persons who shall from time to time be or become the holders thereof, are as follows:

ARTICLE I.

DEFINITIONS

Section 1.1. Terms Defined. In addition to the words and terms elsewhere defined in this Indenture, the following words and terms as used in this Indenture shall have the following meanings unless the context or use indicates another or different meaning or intent:

“Act” means, collectively, Indiana Code 36-7-11.9 and 36-7-12.

“Allocation Area” means the Gigabit Broadband Allocation Area established in accordance with IC 36-7-14-39 and IC 36-7-14-39.3 for the purposes of capturing incremental *ad valorem* depreciable personal property taxes of the Company levied and collected in such allocation area.

“Allocation Fund” means the Gigabit Broadband Allocation Fund established under IC 36-7-14 for the TIF Revenues collected in the Allocation Area.

“Authorized Representative” means, (i) with respect to the Issuer, the Mayor or the Clerk-Treasurer of the Issuer (or such other officer as the Issuer shall notify the Company and the Trustee in writing as being an Authorized Representative, with evidence of such authority); and (ii) with respect to the Company, Ed Corr (or such other officer as the Company shall notify the Issuer and the Trustee in writing as being an Authorized Representative, with evidence of such authority).

“Bondholders” means registered owners of the Bonds.

“Bond Fund” means the Bond Fund established by Section 4.2 of this Indenture.

“Bond Ordinance” means Ordinance No. _____, adopted by the Issuer on January 26, 2015, authorizing and approving the issuance and sale of the Bonds, and approving the Financing Agreement, this Indenture and related matters.

“Bonds” means the City of Westfield, Indiana, Taxable Economic Development Revenue Bonds, Series 2015 (Metro FiberNet Project) in the aggregate principal amount of \$2,500,000.

“City” means the City of Westfield, Indiana.

“Company” means Metro FiberNet LLC, or any successor thereto under the Financing Agreement.

“Economic Development Commission” means the Westfield Economic Development Commission.

“Event of Default” means those events of default specified in and defined by Section 7.1 hereof.

“Financing Agreement” means the Financing Agreement, dated as of February 1, 2015, from the Company to the Issuer and all amendments and supplements thereto.

“Government Obligations” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the timely payment of the principal of and the interest on which are fully and unconditionally guaranteed by, the United States of America or any agency or instrumentally thereof when such obligations are backed by the full faith and credit of the United States of America.

“Indenture” means this instrument as originally executed or as it may from time to time be amended or supplemented pursuant to Article IX.

“Interest Payment Date” on the Bonds means each February 1 and August 1, commencing August 1, 2018.

“Issuer” means the City of Westfield, Indiana, a municipal corporation organized and validly existing under the laws of the State or any successor to its rights and obligations under the Financing Agreement and the Indenture.

“Project Fund” means the Project Fund for the Bonds established in Section 4.3 of this Indenture.

“Projects” means the construction of facilities to house electronics and to install fiber optic cable that will provide high speed internet, telephone and television services for the City of Westfield, Indiana, located within the Allocation Area as established by the Redevelopment Commission.

“Projects Site” means the location of the fiber optic cable in the City of Westfield, Indiana, all as described in the Financing Agreement.

“Qualified Investments” shall mean any of the following to the extent permitted by law: (i) Government Obligations; (ii) money market funds, which may be funds of the Trustee, the assets of which are obligations of or guaranteed by the United States of America and which funds are rated at the time of purchase “AAAm-G or higher by Standards & Poor’s Ratings Service, Inc. and/or “Aaa” by Moody’s Investors Service, Inc.; (iii) bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies: Export-Import Bank, Farmers Home Administration, Federal Financing Bank, Federal Housing Administration, Government National Mortgage Association, Maritime Administration and Farm Credit Banks; (iv) certificates of deposit, savings accounts, deposit accounts or depository receipts of a bank, savings and loan associations and mutual savings banks, including the Trustee, each fully insured by the Federal Deposit Insurance Corporation; (v) bankers’ acceptances or certificates of deposit of commercial banks or savings and loan associations, including the Trustee, which mature not more than one year after the date of purchase; provided the banks or savings and loan associations (as opposed to their holding companies) are rated for unsecured debt at the time of purchase of the investments in the single highest full classification established by Moody’s Investors Service, Inc. and Standard & Poor’s Ratings Service, Inc.; (vi) commercial paper rated at the time of purchase in the single highest full classification by Moody’s Investors Service, Inc. and Standard & Poor’s Ratings Service, Inc. and which matures

not more than 270 days after the date of purchase (including the Trustee and its affiliates); (vii) any guaranteed investment contract or investment agreement of a financial institution which is rated in one of the two highest rating categories by Standard & Poor's Ratings Services; (vii) or U.S. dollar denominated deposit's constituting and obligation of a bank, as defined by the Indiana Banking Act (including the Trustee and its affiliates), whose outstanding unsecured long-term issuer rating is rated at the time of such deposit in any of the three highest rating categories by any Rating Agency (Ratings on holding companies are considered as the rating of the bank). and (ix) repurchase agreements with any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Trustee) or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in clauses (i), (iii) or (iv) above; provided, underlying securities are required by the repurchase agreement to be continuously maintained at a market value not less than the amount so invested.

"Record Date" means the fifteenth day of the month immediately preceding any Interest Payment Date.

"Redevelopment Commission" means the Westfield Redevelopment Commission.

"Requisite Bondholders" means the holders of 66-2/3% in aggregate principal amount of Bonds.

"State" means the State of Indiana.

"TIF Revenues" means the property tax proceeds received by the Redevelopment Commission and pledged to the Issuer pursuant to a resolution adopted by the Redevelopment Commission on February 9, 2015 (the "Pledge"), from the assessed valuation of depreciable personal property of the Company in the Allocation Area, in excess of the assessed valuation described in IC 36-7-14-39(b)(1), as such statutory provision exists on the date of execution of this Indenture.

"Trustee" means _____, a [national bank association duly organized under the laws of the United States] and authorized to accept and execute trusts of the character herein, having a corporate trust office in the city of Indianapolis, Indiana, as trustee, and any successor trustee or co-trustee.

"Trust Estate" shall have the meaning ascribed to such term in the Granting Clauses of this Indenture.

Section 1.2. Rules of Interpretation. For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(1) "This Indenture" means this instrument as originally executed and as it may from time to time be supplemented or amended pursuant to the applicable provisions hereof.

(2) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

(3) The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular and the singular as well as the plural.

(4) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as consistently applied.

(5) Any terms not defined herein but defined in the Financing Agreement shall have the same meaning herein.

(6) The terms defined elsewhere in this Indenture shall have the meanings therein prescribed for them.

Section 1.3. Exhibits. The following Exhibits are attached to and by reference made a part of this Indenture:

Exhibit A: Disbursement Request Form

(End of Article I)

ARTICLE II.

THE BONDS

Section 2.1. Authorized Amount of Bonds. No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The principal amount of the Bonds (other than Bonds issued in substitution therefor pursuant to Section 2.9 hereof) that may be issued is hereby expressly limited to \$2,500,000.

Section 2.2. Issuance of the Bonds. The Bonds shall be designated “City of Westfield, Indiana, Taxable Economic Development Revenue Bonds, Series 2015 (Metro FiberNet Project),” and lettered and numbered 2015RA-1 and upward. The Bonds shall be originally issuable as fully registered Bonds without coupons in denominations of \$1,000 or integral multiples thereof. Interest on Bonds shall be paid to the owners of such Bonds determined as of the close of business of the Record Date next preceding each Interest Payment Date at the registered addresses of such owners as they shall appear on the registration books of the Trustee, as registrar for the Bonds, notwithstanding the cancellation of any such Bonds upon any exchange or transfer thereof subsequent to the Record Date and prior to such Interest Payment Date. Payment of interest to the holders of all Bonds shall be by check drawn on the main office of the Trustee and mailed to such holder of the Bonds one business day prior to each Interest Payment Date. The Bonds shall be dated as of the date of their delivery. Interest shall be computed on the basis of a three hundred sixty (360) day year consisting of twelve (12) thirty (30) day months. The interest on the Bonds shall be payable on each February 1 and August 1 commencing August 1, 2018.

The Bonds shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless such date of authentication shall be subsequent to a Record Date in which case they shall bear interest from the Interest Payment Date with respect to such Record Date.

The Bonds shall mature on the following dates in the following amounts and at the following interest rates:

<u>Payment Date</u>	<u>Maturity Amount</u>	<u>Interest Rate</u>
---------------------	------------------------	----------------------

The Bonds may be issued as one or more term bonds.

Section 2.3. Payment on the Bonds. The principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which, at the respective dates of payment thereof, is legal tender for the payment of public and private debts. The principal of the Bonds shall be payable at the principal corporate trust office of the Trustee. All payments of interest on the Bonds shall be made to the person appearing on the Bond registration books of the Trustee as the registered owner of the Bonds by check mailed to the Registered Owner thereof as shown on the registration books of the Trustee, as registrar for the Bonds. Each registered owner of \$2,500,000 or more in principal amount of Bonds shall be entitled to

receive interest payments by wire transfer by providing written wire instructions to the Trustee before the Record Date for such payment.

Section 2.4. Execution: Limited Obligation. The Bonds shall be executed on behalf of the Issuer with the manual or facsimile signature of its Mayor and attested with the manual or the facsimile signature of its Clerk-Treasurer and shall have impressed or printed thereon the corporate seal of the Issuer. Such facsimiles shall have the same force and effect as if such officer had manually signed each of said Bonds. In case any officer whose signature or facsimile signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall, nevertheless, be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

The Bonds, and the interest payable thereon, do not and shall not represent or constitute a debt of the Issuer, the State of Indiana or any political subdivision or taxing authority thereof within the meaning of the provisions of the constitution or statutes of the State of Indiana or a pledge of the faith and credit of the Issuer, the State of Indiana or any political subdivision or taxing authority thereof. The Bonds, as to both principal and interest, are not an obligation or liability of the Issuer, the State of Indiana, or of any political subdivision or taxing authority thereof, but are a special limited obligation of the Issuer and are payable solely and only from the TIF Revenues pledged and assigned for their payment in accordance with the Indenture. Neither the faith and credit nor the taxing power of the Issuer, the State of Indiana or any political subdivision or taxing authority thereof is pledged to the payment of the principal of or the interest on the Bonds. The Bonds do not grant the owners or holders thereof any right to have the Issuer, the State of Indiana or its General Assembly, or any political subdivision or taxing authority of the State of Indiana, levy any taxes or appropriate any funds for the payment of the principal of or interest on the Bonds. The Issuer has no taxing power with respect to the Bonds. No covenant or agreement contained in the Bonds or the Indenture shall be deemed to be a covenant or agreement of any member, director, officer, agent, attorney or employee of the Economic Development Commission, the Redevelopment Commission or the Issuer in his or her individual capacity, and no member, director, officer, agent, attorney or employee of the Economic Development Commission, the Redevelopment Commission, or the Issuer executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds.

Section 2.5. Authentication. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until the certificate of authentication on such Bond substantially in the form hereinafter set forth shall have been duly executed by the Trustee, and such executed certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued hereunder.

Section 2.6. Form of the Bonds. The Bonds issued under this Indenture shall be substantially in the form set forth below with such appropriate variations, omissions and insertions as are permitted or required by this Indenture or deemed necessary by the Trustee:

(Form of Bond)

UNITED STATES OF AMERICA

2015RA-1

CITY OF WESTFIELD, INDIANA
TAXABLE ECONOMIC DEVELOPMENT REVENUE BOND, SERIES 2015
(METRO FIBERNET PROJECT)

INTEREST
RATE

MATURITY
DATE

ORIGINAL
DATE

AUTHENTICATION
DATE

PRINCIPAL AMOUNT: \$2,500,000

REGISTERED OWNER:

The City of Westfield, Indiana (the “Issuer”), a municipal corporation organized and existing under the laws of the State of Indiana, for value received, hereby promises to pay in lawful money of the United States of America to the Registered Owner listed above, but solely from the payments of TIF Revenues hereinafter referred to pledged and assigned for the payment hereof, the Principal Amount set forth above on the Maturity Date or such lesser amount as has been advanced and remains unpaid on the Maturity Date specified above, unless this Bond shall have previously been called for redemption and payment of the redemption price made or provided for, and to pay interest on the unpaid principal amount hereof in like money, but solely from said payments, at the Interest Rate specified above per annum payable on August 1, 2018, and on each February 1 and August 1 thereafter (each an “Interest Payment Date”) until the Principal Amount is paid in full. Interest on this Bond shall be payable from the Interest Payment Date next preceding the date of authentication thereof (the “Interest Date”), except that: (i) if this Bond is authenticated on or prior to July 15, 2018, the Interest Date shall be the Original Date specified above; (ii) if this Bond is authenticated on or after the fifteenth day of the calendar month immediately preceding an Interest Payment Date (the “Record Date”), the Interest Date shall be such Interest Payment Date; and (iii) if interest on this Bond is in default, the Interest Date shall be the day after the date to which interest hereon has been paid in full. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

The proceeds of this Bond or credits related thereto may be advanced from time to time at the request of Metro FiberNet, LLC (the “Borrower”). As advances are made or credits given in the form of approved expenditures on the Projects, the unpaid principal amount of this Note shall be the total amounts advanced or credited by the Registered Owner from time to time, less any prior redemption of the principal amount due, as set forth on Exhibit A hereto. The principal amounts advanced or given as credits toward an advance shall be evidenced by the execution by the Borrower of a Disbursement Request in form and substance satisfactory to the Issuer and Registered Owner.

The principal of this Bond is payable at the office of [Trustee], as trustee (the “Trustee”), in [Indianapolis], Indiana, or at the principal office of any successor trustee. All payments of interest hereon will be made by the Trustee by check mailed one business day prior to each Interest Payment Date to the Registered Owner hereof at the address shown on the registration books of the Trustee as maintained by the Trustee, as registrar, determined on the Record Date next preceding such Interest Payment Date. Each registered owner of \$2,500,000 or more in principal amount of Bonds shall be entitled to receive interest payments by wire transfer by providing written wire instructions to the Trustee before the Record Date for such payment.

This Bond is one of the Issuer’s Taxable Economic Development Revenue Bonds, Series 2015 (Metro FiberNet Project) (hereinbefore and hereinafter the “Bonds”) which are being issued under the hereinafter described Indenture in the aggregate principal amount of \$2,500,000. The Bonds are being issued for the purpose of providing funds to finance a portion of the cost of the construction by Metro FiberNet LLC (the “Company”) of facilities to

house electronics and to install fiber optic cable that will provide high speed internet, telephone and television services for the City of Westfield, Indiana, located within the Allocation Area as established by the Redevelopment Commission (the “Projects”) by providing such funds to the Company pursuant to the Financing Agreement, dated as of February 1, 2015 (the “Financing Agreement”) between the Company and the Issuer, which prescribes the terms and conditions under which the Company shall use such proceeds for the Projects.

The Bonds are issued under and entitled to the security of a Trust Indenture dated as of February 1, 2015 (hereinafter referred to as the “Indenture”) duly executed and delivered by the Issuer to [Trustee], as trustee (the term “Trustee” where used herein referring to said Trustee or its successors), pursuant to which Indenture, the TIF Revenues (as defined in the Indenture) are pledged and assigned by the Issuer to the Trustee as security for the Bonds. The Bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Indiana, particularly Indiana Code, Title 36, Article 7, Chapters 11.9 and 12 (the “Act”), and by appropriate action duly taken by the Issuer which authorizes the execution and delivery of the Indenture. The Bonds have been issued in conformity with the provisions, restrictions and limitations of the Act.

The Westfield Redevelopment Commission (the “Redevelopment Commission”) has pledged the TIF Revenues (as defined in the Indenture) to the payment of the Bonds.

The Bonds are issuable in registered form without coupons in the denominations of \$1,000 or integral multiples thereof. This Bond is transferable by the registered holder hereof in person or by his attorney duly authorized in writing at the principal office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture and upon surrender and cancellation of this Bond. Upon such transfer a new registered Bond will be issued to the transferee in exchange therefor.

The Issuer and the Trustee may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

The Bonds are redeemable at the option of the Issuer at the direction of the Company on any date, upon fifteen (15) days’ notice, in whole or in part, in order of maturity determined by Issuer and by lot within maturities, at face value, plus accrued interest to the date fixed for redemption.

The Bonds maturing on August 1, 2040 are subject to mandatory sinking fund redemption prior to maturity at a redemption price equal to the principal amount thereof plus accrued interest, on the dates and in the amounts set forth below:

<u>Date</u>	<u>Amount</u>
-------------	---------------

If fewer than all of the Bonds at the time outstanding are to be called for redemption, the maturities of Bonds or portions thereof to be redeemed shall be selected by the Trustee at the direction of the Issuer. If fewer than all of the Bonds within a maturity are to be redeemed, the Trustee shall apply moneys available for redemption on a pro rata basis, based on the respective portion of the principal amount of Bonds held by the respective owners of the Bonds within such maturity that shall be redeemed.

In the event any of the Bonds are called for redemption as aforesaid, notice thereof identifying the Bonds to be redeemed will be given by mailing a copy of the redemption notice by first class mail not less than fifteen (15) days nor more than thirty (30) days prior to the date fixed for redemption to the Registered Owner of the Bonds to be redeemed at the address shown on the registration books; provided, however, that failure to give such notice by mailing, or any defect therein with respect to any registered Bond, shall not affect the validity of any proceedings for the redemption of other Bonds.

All Bonds so called for redemption will cease to bear interest on the specified redemption date, provided funds for their redemption are on deposit at the place of payment at that time, and shall no longer be protected by the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture.

The Bonds, and the interest payable thereon, do not and shall not represent or constitute a debt of the Issuer, the State of Indiana, or any political subdivision or taxing authority thereof within the meaning of the provisions of the constitution or statutes of the State of Indiana or a pledge of the faith and credit of the Issuer, the State of Indiana, or any political subdivision or taxing authority thereof. The Bonds, as to both principal and interest, are not an obligation or liability of the Issuer, the State of Indiana, or of any political subdivision or taxing authority thereof, but are a special limited obligation of the Issuer and are payable solely and only from the TIF Revenues pledged and assigned for their payment in accordance with the Indenture. Neither the faith and credit nor the taxing power of the Issuer, the State of Indiana or any political subdivision or taxing authority thereof is pledged to the payment of the principal of or the interest on this Bond. The Bonds do not grant the owners or holders thereof any right to have the Issuer, the State of Indiana or its General Assembly, or any political subdivision or taxing authority of the State of Indiana, levy any taxes or appropriate any funds for the payment of the principal of or interest on the Bonds. The Issuer has no taxing power with respect to the Bonds. No covenant or agreement contained in the Bonds or the Indenture shall be deemed to be a covenant or agreement of any member, director, officer, agent, attorney or

employee of the Westfield Economic Development Commission (the “Economic Development Commission”), the Westfield Redevelopment Commission (the “Redevelopment Commission”) or the Issuer in his or her individual capacity, and no member, director, officer, agent, attorney or employee of the Economic Development Commission, the Redevelopment Commission or the Issuer executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds.

The holder of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. Modifications or alterations of the Indenture, or of any supplements thereto, may be made to the extent and in the circumstances permitted by the Indenture.

It is hereby certified that all conditions, acts and things required to exist, happen and be performed under the laws of the State of Indiana and under the Indenture precedent to and in the issuance of this Bond exist, have happened and have been performed, and that the issuance, authentication and delivery of this Bond have been duly authorized by the Issuer.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the certificate of authentication hereon shall have been duly executed by the Trustee.

IN WITNESS WHEREOF, the City of Westfield, Indiana, has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of the Mayor and its corporate seal to be hereunto affixed manually or by facsimile and attested to by the manual or facsimile signature of its Clerk-Treasurer.

CITY OF WESTFIELD, INDIANA

By: _____
Mayor

(Seal)

Attest:

Clerk-Treasurer

(FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION)

This Bond is one of the Bonds described in the within mentioned Trust Indenture.

[Trustee], as Trustee

By _____
Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____
_____ (Please Print or Typewrite Name and Address) the within Series ____ Bond and all rights, title and interest thereon, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

SIGNATURE GUARANTEED: _____

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association of a recognized signature guarantee program.

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within the Bonds in every particular, without alteration or enlargement or any change whatever.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

UNIF TRAN MIN ACT -- _____ Custodian _____
(Cust) (Minor)

under Uniform Transfers to Minors Act

(State)

TEN COM -- as tenants in common
JT TEN -- as joint tenants with right of survivorship and not as
tenants in common

Additional abbreviations may also be used though not in the above list.

Exhibit A

**SCHEDULE OF OUTSTANDING BALANCE OF
CITY OF WESTFIELD, INDIANA
ECONOMIC DEVELOPMENT REVENUE BOND, SERIES 2015
(METRO FIBERNET PROJECT)**

<u>Date</u>	<u>Disbursement Request Number</u>	<u>Principal Amount Paid</u>	<u>Amount of Advance</u>		<u>Outstanding Balance</u>
	1				

(End of Bond Form)

Section 2.7. Delivery of Bonds. The Trustee shall authenticate the Bonds and deliver them to the purchasers thereof upon receipt of a copy, duly certified by the Clerk-Treasurer of the Issuer, of the Bond Ordinance authorizing the execution and delivery of the Financing Agreement and this Indenture and the issuance of the Bonds, and delivery of the following.

- (1) An executed counterpart of the Financing Agreement and this Indenture.
- (2) A written request of the Issuer to the Trustee requesting the Trustee to authenticate, or cause to be authenticated, and deliver the Bonds in the Authorized Amount to the purchasers thereof.
- (3) Such other documents as shall be required by bond counsel or the Issuer.

The proceeds of the Bonds shall be paid over to the Trustee and deposited to the Project Fund as hereinafter provided under Section 3.1 hereof.

Section 2.8. Mutilated, Lost, Stolen or Destroyed Bonds. In the event any Bond is mutilated, lost, stolen or destroyed, then, in the absence of notice to the Trustee that such Certificate has been acquired by a bona fide purchaser, the Issuer, through the Trustee, may execute and the Trustee may authenticate a new Bond of like date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Issuer, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to it.

In the event any such Bond shall have matured, instead of issuing a duplicate Bond the Issuer may pay the same without surrender thereof; provided, however, that in the case of a lost, stolen or destroyed Bond, there shall be first furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee; together with indemnity satisfactory to it. The Trustee may charge the holder or owner of such Bond with their reasonable fees and expenses in this connection. Any Bond issued pursuant to this Section 2.8 shall be deemed part of the original series of Bonds in respect of which it was issued and an original additional contractual obligation of the Issuer.

Section 2.9. Registration and Exchange of Bonds: Persons Treated as Owners. The Issuer shall cause books for the registration and for the transfer of the Bonds as provided in this Indenture to be kept by the Trustee which is hereby constituted and appointed the registrar of the Issuer. Upon surrender for transfer of any fully registered Bond at the principal office of the Trustee, duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Trustee and duly executed by the registered owner or his attorney duly authorized in writing, the Issuer shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of the same series and the same maturity for a like aggregate principal amount. The execution by the Issuer of any fully registered Bond without coupons of any denomination shall constitute full and due

authorization of such denomination, and the Trustee shall thereby be authorized to authenticate and deliver such registered Bond. The costs of such transfer or exchange shall be borne by the Issuer. The Trustee shall not be required to transfer or exchange any fully registered Bond during the period between the Record Date and any interest payment date of such Bond, nor to transfer or exchange any Bond after the mailing of notice calling such Bond for redemption has been made, nor during a period of fifteen (15) days next preceding mailing of a notice of redemption of any Bonds.

As to any fully registered Bond without coupons, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of principal or interest thereon, shall be made only to or upon the order of the registered owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

(End of Article II)

ARTICLE III.

APPLICATION OF THE BOND PROCEEDS

Section 3.1. Deposit of Bond Funds. The Issuer shall deposit all proceeds from the sale of the Bonds in a separate fund to be known as the “City of Westfield, Indiana--Metro FiberNet Project Fund.” Disbursements from the Project Fund will be used to pay for costs of the Projects and costs of issuing the Bonds, and are to be made in accordance with the provisions of Article IV of this Indenture.

(End of Article III)

ARTICLE IV.

REVENUE AND FUNDS

Section 4.1. Source of Payment of the Bonds. The Bonds herein authorized and all payments to be made by the Issuer hereunder are not general obligations of the Issuer but are limited obligations payable solely from the TIF Revenues pledged and assigned for their payment in accordance with the Indenture. No covenant or agreement contained in the Bonds or this Indenture shall be deemed to be a covenant or agreement of any member, director, officer, agent, attorney or employee of the Issuer in his or her individual capacity, and no member, director, officer, agent, attorney, or employee of the Issuer executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds.

The Redevelopment Commission has pledged the TIF Revenues to the payment of the Bonds.

Section 4.2. Bond Fund.

(a) The Trustee shall establish and maintain, so long as any of the Bonds are outstanding, a separate fund to be known as the “City of Westfield, Indiana—Metro FiberNet Project Bond Fund” (the “Bond Fund”). Money in the Bond Fund shall be applied as provided in this Section 4.2.

(b) There shall be deposited in the Bond Fund, as and when received, all of the TIF Revenues available, first to pay any interest due and outstanding, and then to pay as much principal as possible due on the Bonds on the next February 1 or August 1, plus Trustee fees coming due within the next six (6) months with respect to the Bonds. The Issuer hereby covenants and agrees that so long as any of the Bonds issued hereunder are outstanding it will deposit, or cause to be paid to Trustee for deposit in the Bond Fund for its account, all of the revenues and receipts derived from the TIF Revenues, promptly to meet and pay the principal of and interest on the Bonds as the same become due and payable together with such Trustee fees. Nothing herein should be construed as requiring the Issuer to deposit or cause to be paid to Trustee for deposit in the Bond Fund, funds from any source other than receipts derived from the TIF Revenues.

(c) The Clerk-Treasurer of the Issuer shall set aside immediately upon receipt the TIF Revenues into the Allocation Fund and transfer such TIF Revenues to the Trustee for application in accordance with this Indenture. The Trustee is hereby directed to deposit the TIF Revenues into the Bond Fund in the manner prescribed in this Section 4.2 and in Section 4.4. Moneys in the Bond Fund shall be used by the Trustee to pay the interest on and principal of the Bonds as the same becomes due together with the Trustee fees described in subsection (a).

Section 4.3. Project Fund. The Issuer shall maintain the Project Fund in the custody of the Trustee, to the credit of which deposits are to be made as required by the provisions of Section 3.1 hereof.

(a) Moneys held in the Project Fund representing proceeds of the sale of the Bonds shall be disbursed by the Trustee in accordance with the provisions of this Section 4.3 to pay the costs of the Projects, including the issuance costs of the Bonds. Subject to the provisions below and to any applicable representations, warranties and covenants contained in the Indenture or the Financing Agreement, disbursements from the Project Fund shall be made only to pay (or to reimburse the Company for payment of) costs of the Projects, as the case may be, as follows:

(1) Costs incurred directly or indirectly for or in connection with the acquisition, construction, expansion, equipping, installation or improvement of the Projects, as the case may be, including: costs incurred with respect to preliminary planning and studies; architectural, legal, engineering, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work;

(2) Costs incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to the Projects, as the case may be;

(3) Financial, legal, accounting, charges and expenses, and all other fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds, including, without limitation, the fees and expenses of the Issuer, Issuer's Counsel, Bond Counsel, Company's Counsel, Financial Advisor to the Issuer, and the Trustee (the "Costs of Issuance"); and

(4) Any other incidental and necessary costs, expenses, fees and charges relating to the acquisition, construction, expansion, equipping, installation or improvement of the Projects, as the case may be.

Promptly after the proceeds from the sale of the Bonds are deposited into the Project Fund, the Trustee shall pay the Costs of Issuance from such funds.

Any further disbursements from the Project Fund described above to pay such fees, costs or expenses or to reimburse the Company for the payment of such fees, costs or expenses, other than Costs of Issuance, shall be made by the Trustee only upon the written order of the Company. Each such written order shall be in the form of the disbursement request attached hereto as Exhibit A and shall be consecutively numbered and accompanied by invoices or other appropriate documentation supporting the payments or reimbursements requested.

(b) The Trustee shall cause to be kept and maintained adequate records pertaining to the Project Fund and all disbursements therefrom. If requested by the Company or the Issuer, the Trustee shall file copies of the records pertaining to the Project Fund and all disbursements from such fund with the Issuer and the Company.

(c) If, after payment of all costs of the Project requested by the Company, there shall remain any balance of moneys in the Project Fund, the Issuer shall transfer all moneys then in such Project Fund to the Bond Fund.

Section 4.4. TIF Revenues. On or before each January 15 and July 15, commencing July 15, 2018, the Trustee shall deposit to the Bond Fund all of the TIF Revenues, for the payment of the principal of and interest on the Bonds on the immediately succeeding August 1 or February 1 (taking into consideration any amounts currently deposited therein) together with Trustee fees coming due within the next six (6) months. Any remaining TIF Revenues shall be applied by the Trustee as follows: (a) first, to pay any overdue principal and interest on outstanding Bonds, with interest continuing to accrue on such overdue amounts at the stated rate on such Bonds until paid, and (b) second, to redeem outstanding Bonds in accordance with Section 5.1 hereof or to be held as additional reserves for payment of debt service on the Bonds, as directed by the Company.

Section 4.5. Rebate Fund. [RESERVED]

Section 4.6. Trust Funds. All moneys and securities received by the Trustee under the provisions of this Indenture, shall be trust funds under the terms hereof and shall not be subject to lien or attachment of any creditor of the Issuer or of the Company. Such moneys shall be held in trust and applied in accordance with the provisions of this Indenture.

Section 4.7. Investment. Moneys on deposit in the Funds established in this Article IV hereof shall be invested as provided in Section 6.6 hereof.

(End of Article IV)

ARTICLE V.

REDEMPTION OF BONDS BEFORE MATURITY

Section 5.1. Redemption Dates and Prices--Optional Redemption. The Bonds are redeemable at the option of the Issuer at the direction of the Company on any date, upon fifteen (15) days' notice, in whole or in part, in order of maturity determined by Issuer and by lot within maturities, at face value, plus accrued interest to the date fixed for redemption.

If fewer than all of the Bonds at the time outstanding are to be called for redemption, the maturities of Bonds or portions thereof to be redeemed shall be selected by the Trustee at the direction of the Issuer. If fewer than all of the Bonds within a maturity are to be redeemed, the Trustee shall apply moneys available for redemption on a pro rata basis, based on the respective portion of the principal amount of Bonds held by the respective owners of the Bonds within such maturity that shall be redeemed.

Section 5.2. Notice of Redemption. In the case of redemption of Bonds pursuant to Section 5.1 hereof, notice of the call for any such redemption identifying the Bonds, or portions of fully registered Bonds, to be redeemed shall be given by mailing a copy of the redemption notice by first class mail not less than fifteen (15) days nor more than thirty (30) days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books. Such notice of redemption shall specify, in the event of a partial redemption, the Bond numbers and called amounts of each Bond, the redemption date, redemption price, interest rate, maturity date and the name and address of the Trustee; provided, however, that failure to give such notice by mailing, or any defect therein, with respect to any such registered Bond shall not affect the validity of any proceedings for the redemption of other Bonds.

On and after the redemption date specified in the aforesaid notice, such Bonds, or portions thereof, thus called shall not bear interest, shall no longer be protected by this Indenture and shall not be deemed to be outstanding under the provisions of this Indenture, and the holders thereof shall have the right only to receive the redemption price thereof plus accrued interest thereon to the date fixed for redemption.

Section 5.3. Cancellation. All Bonds which have been redeemed in whole shall be canceled and cremated or otherwise destroyed by the Trustee and shall not be reissued and a counterpart of the certificate of cremation or other destruction evidencing such cremation or other destruction shall be furnished by the Trustee to the Issuer.

Section 5.4. Redemption Payments. Prior to the date fixed for redemption in whole, funds shall be deposited with Trustee to pay, and Trustee is hereby authorized and directed to apply such funds to the payment of the Bonds or portions thereof called, together with accrued interest thereon to the redemption date. Upon the giving of notice and the deposit of funds for redemption, interest on the Bonds thus called shall no longer accrue after the date fixed for redemption. No payment shall be made by the Trustee upon any Bond until such Bond shall

have been delivered for payment or cancellation or the Trustee shall have received the items required by Section 2.8 hereof with respect to any mutilated, lost, stolen or destroyed Bond.

Section 5.5. Partial Redemption of Bonds. If fewer than all of the Bonds at the time outstanding are to be called for redemption, the maturities of Bonds or portions thereof to be redeemed shall be selected by the Trustee at the direction of the Issuer. If fewer than all of the Bonds within a maturity are to be redeemed, the Trustee shall apply moneys available for redemption on a pro rata basis, based on the respective portion of the principal amount of Bonds held by the respective owners of the Bonds within such maturity that shall be redeemed. The Trustee shall call for redemption in accordance with the foregoing provisions as many Bonds or portions thereof as will, as nearly as practicable; exhaust the moneys available therefor.

If less than the entire principal amount of any registered Bond then outstanding is called for redemption, then upon notice of redemption given as provided in Section 5.2 hereof, the owner of such registered Bond shall forthwith surrender such Bond to the Trustee in exchange for (a) payment of the redemption price of, plus accrued interest on the principal amount called for redemption and (b) a new Bond or Bonds of like series in an aggregate principal amount equal to the unredeemed balance of the principal amount of such registered Bond, which shall be issued without charge therefor.

(End of Article V)

ARTICLE VI.

GENERAL COVENANTS

Section 6.1. Payment of Principal and Interest. The Issuer covenants that it will promptly pay the principal of and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in said Bonds according to the true intent and meaning thereof. The principal of and interest on the Bonds are payable solely and only from the TIF Revenues, which payments are specifically pledged and assigned to the payment thereof in the manner and to the extent herein specified, and nothing in the Bonds or in this Indenture should be considered as pledging any other funds or assets of the Issuer. The Bonds, and the interest payable thereon, do not and shall not represent or constitute a debt of the Issuer, the State of Indiana, or any political subdivision or taxing authority thereof within the meaning of the provisions of the constitution or statutes of the State of Indiana or a pledge of the faith and credit of the Issuer, the State of Indiana, or any political subdivision or taxing authority thereof. The Bonds, as to both principal and interest, are not an obligation or liability of the Issuer, the State of Indiana, or of any political subdivision or taxing authority thereof, but are special limited obligations of the Issuer and are payable solely and only from the TIF Revenues pledged and assigned for their payment in accordance with the Indenture. Neither the faith and credit nor the taxing power of the Issuer, the State of Indiana or any political subdivision or taxing authority thereof is pledged to the payment of the principal of or the interest on the Bonds. The Bonds do not grant the owners or holders thereof any right to have the Issuer, the State of Indiana or its General Assembly, or any political subdivision or taxing authority of the State of Indiana, levy any taxes or appropriate any funds for the payment of the principal of or interest on the Bonds. The Issuer has no taxing power with respect to the Bonds. No covenant or agreement contained in the Bonds, Company Notes or the Indenture shall be deemed to be a covenant or agreement of any member, director, officer, agent, attorney or employee of the Economic Development Commission, the Redevelopment Commission or the Issuer in his or her individual capacity, and no member, director, officer, agent, attorney or employee of the Economic Development Commission, the Redevelopment Commission or the Issuer executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds.

Section 6.2. Performance of Covenants. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings of its members pertaining thereto. The Issuer represents that it is duly authorized under the constitution and laws of the State of Indiana to issue the Bonds authorized hereby and to execute this Indenture, pledge the TIF Revenues in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken, and that the Bonds in the hands of the holders and owners thereof are and will be valid and enforceable obligations of the Issuer according to the import thereof.

Section 6.3. Filing of Indenture and Security Instruments. The Issuer shall cause this Indenture and all supplements thereto as well as such other security instruments,

financing statements and all supplements thereto and other instruments as may be required from time to time to be filed in such manner and in such places as may be required by law in order to fully preserve and protect the lien hereof and the security of the holders and owners of the Bonds and the rights of the Trustee hereunder.

Section 6.4. List of Bondholders. The Trustee will keep on file at the principal office of the Trustee a list of names and addresses of the holders of all Bonds. At reasonable times and under reasonable regulations established by the Trustee, said list may be inspected and copied by the holders and/or owners (or a designated representative thereof) of 25% or more in principal amount of Bonds then outstanding, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Trustee.

Section 6.5. Rights Under Financing Agreement. The Issuer agrees that the Trustee in its name or in the name of the Issuer may enforce all rights of the Issuer and all obligations of the Company under and pursuant to the Financing Agreement (except the rights reserved to the Issuer therein) for and on behalf of the Bondholders, whether or not the Issuer is in default hereunder.

Section 6.6. Investment of Funds. With respect to any moneys held by the Trustee under any Fund established hereunder, the Company and the Issuer agree that all moneys in the Project Fund established by this Indenture may, at the written direction of the Company, be invested in Qualified Investments, and all moneys in any other Fund established by this Indenture may, at the written direction of the Issuer, be invested in Qualified Investments to the extent permitted by law. In the absence of such direction from the Company or Issuer, as the case may be, the Trustee is hereby directed by the Issuer to invest such amounts in investments meeting the requirements of clause (ii) of the definition of Qualified Investments. With respect to any moneys held by the Issuer under any Fund established by this Indenture, the Issuer may invest such moneys in Qualified Investments as it deems appropriate. Investments of moneys in the Bond Fund shall mature or be redeemable at the option of the Trustee at the times and in the amounts necessary to provide moneys to pay the principal of and interest on the Bonds by redemption or otherwise. All income derived from the investment of moneys on deposit in such Fund shall be deposited in or credited to and any loss resulting from such investment will be charged to the corresponding Fund from which such investment was made.

The Trustee is hereby authorized to trade with itself in the purchase and sale of securities for investments. Neither the Trustee nor the Issuer shall be liable or responsible for any loss resulting from any investment. All such investments shall be held by or under the control of the Trustee or the Issuer, as applicable, and any income resulting therefrom shall be applied in the manner specified in this Indenture.

Section 6.7. Non-presentment of Bonds. In the event any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity, or at the date fixed for redemption thereof, or otherwise, if funds sufficient to pay any such Bond shall have been made available to Trustee for the benefit of the holder or holders thereof, all liability of Issuer to the holder thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of Trustee to hold such funds for four (4) years without liability for interest thereon; for the benefit of the holder of such Bond, who

shall thereafter be restricted exclusively to such funds, for any claim of whatever nature on his part under this Indenture or on, or with respect to, such Bond.

Any moneys so deposited with and held by the Trustee not so applied to the payment of Bonds within four (4) years after the date on which the same shall become due shall be repaid by Trustee to the Issuer and thereafter Bondholders shall be entitled to look only to the Issuer for payment, and then only to the extent of the amount so repaid.

(End of Article VI)

ARTICLE VII.

DEFAULTS AND REMEDIES

Section 7.1. Events of Default. Each of the following events is hereby declared an “event of default,” that is to say, if

(a) payment of any amount payable on the Bonds shall not be made when the same is due and payable; or

(b) any event of default as defined in Section 6.1 of the Financing Agreement shall occur and be continuing; or

(c) the Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Indenture or any agreement supplemental hereof on the part of the Issuer to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall have been given to the Issuer and the Company by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the holders of all of the Bonds then outstanding hereunder; or

(d) the Issuer shall fail to apply collected TIF Revenues as required by Article 4 of this Indenture.

Section 7.2. Remedies: Rights of Bondholders.

(i) If an event of default occurs, the Trustee may pursue any available remedy by suit at law or in equity to enforce the payment of the principal of and interest on the Bonds then outstanding, and to enforce any obligations of the Issuer hereunder.

(ii) Upon the occurrence of an event of default, and if directed so to do by the Requisite Bondholders and indemnified as provided in Section 8.1 hereof, the Trustee shall be obliged to exercise one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bondholders.

(iii) No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Bondholders) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Bondholders hereunder or now or hereafter existing at law or in equity or by statute.

(iv) No delay or omission to exercise any right or power accruing upon any event of default shall impair any such right or power or shall be construed to be a waiver of any event of default or acquiescence therein, and every such right and power may be exercised from time to time as may be deemed expedient.

(v) No waiver of any event of default hereunder, whether by the Trustee or by the Bondholders, shall extend to or shall affect any subsequent event of default or shall impair any rights or remedies consequent thereon.

Section 7.3. Right of Bondholders to Direct Proceedings. The Requisite Bondholders shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided, that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture.

Section 7.4. Application of Moneys. All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article and any other moneys held as part of the Trust Estate shall, after payment of the cost and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee or the Issuer, be deposited in the Bond Fund and all moneys in the Bond Fund shall be applied as follows:

First: To the payment to the persons entitled thereto of all installments of interest then due on the Bonds, in the order of the maturity of the installments of such interest, and if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereof, without any discriminations or privilege; and

Second: To the payment to the persons entitled thereto of the unpaid principal of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, with interest on such Bonds from the respective dates upon which they become due, and if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege.

Third: To the payment of the balance, if any, to the Issuer or to whomsoever may be lawfully entitled to receive the same upon its written request, or as any court of competent jurisdiction may direct.

Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an interest payment date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date and shall not be required to make payment to the

holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 7.5. Remedies Vested In Trustee. All rights of action (including the right to file proof of claims) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any holders of the Bonds, and any recovery of judgment shall, subject to the provisions of Section 7.4 hereof, be for the equal benefit of the holders of the outstanding Bonds.

Section 7.6. Rights and Remedies of Bondholders. No holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust thereof or for the appointment of a receiver or any other remedy hereunder, unless a default has occurred of which the Trustee has been notified as provided in subsection (g) of Section 8.1, or of which by said subsection it is deemed to have notice, nor unless also such default shall have become an event of default and the Requisite Bondholders shall have made written request to the Trustee and shall have offered reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, nor unless also they have offered to the Trustee indemnity as provided in Section 8.1 hereof, nor unless the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its, his, or their own name or names. Such notification, request and offer of indemnity are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by its, his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the holders of all Bonds then outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Bondholder to enforce the covenants of the Issuer to pay the principal of and interest on each of the Bonds issued hereunder to the respective holders thereof at the time, place, from the source and in the manner in said Bonds expressed.

Section 7.7. Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer, the Company and the Trustee shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 7.8. Waivers of Events of Default. The Trustee may in its discretion waive any event of default hereunder and its consequences and rescind any declaration of maturity of principal of and interest on the Bonds, and shall do so upon the written request of the holders of (1) all the Bonds then outstanding in respect of which default in the payment of

principal or interest exists, or (2) all Bonds then outstanding in the case of any other default; provided, however, that there shall not be waived without the consent of all Bondholders (a) any event of default in the payment of the principal of any outstanding Bonds at the date of maturity specified therein, or (b) any default in the payment when due of the interest on any such Bonds unless prior to such waiver or rescission, arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds in respect of which such default shall have occurred on overdue installments of interest or all arrears of payments of principal when due, as the case may be, and all expenses of the Trustee in connection with such default (including extraordinary services) shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

(End of Article VII)

ARTICLE VIII.

THE TRUSTEE

Section 8.1. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts as a corporate trustee ordinarily would perform said trusts under a corporate indenture, but no implied covenants or obligations shall be read into this Indenture against the Trustee.

(a) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or if appointed through attorneys, agents, receivers or employees but shall not be answerable for the conduct of the same in accordance with the standard specified above, and shall be entitled to advice of counsel concerning all matters of trusts hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorney (who may be the attorney or attorneys for the Issuer or the Company). The Trustee shall not be responsible for any loss or damage resulting from any action or non-action in good faith in reliance upon such opinion or advice.

(b) The Trustee shall not be responsible for any recital herein, or in the Bonds (except in respect to the certificate of the Trustee endorsed on the Bonds), or for insuring the property herein conveyed or collecting any insurance moneys, or for the validity of the execution by the Issuer of this Indenture or of any supplements thereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for the value or title of the property herein conveyed or otherwise as to the maintenance of the security hereof; and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the Issuer or on the part of the Company under the Financing Agreement; but the Trustee may require of the Issuer or the Company full information and advice as to the performance of the covenants, conditions and agreements aforesaid as to the condition of the property herein conveyed. The Trustee shall have no obligation to perform any of the duties of the Issuer under the Financing Agreement, and the Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with the provisions of this Indenture.

(c) The Trustee shall not be accountable for the use of any Bonds authenticated by it or delivered hereunder. The Trustee may become the owner of Bonds secured hereby with the same rights which it would have if not Trustee.

(d) The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such

authority or consent is the owner of any Bonds, shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

(e) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate signed on behalf of the Issuer or the Company by its duly authorized officers as sufficient evidence of the facts therein contained and prior to the occurrence of a default of which the Trustee has been notified as provided in subsection (g) of this Section, or of which said subsection it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Trustee may accept a certificate of the Issuer or the Company under its seal to the effect that an ordinance or resolution in the form therein set forth has been adopted by the Issuer or the Company as conclusive evidence that such ordinance or resolution has been duly adopted, and is in full force and effect.

(f) The duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee.

(g) The Trustee shall not be required to take notice or be deemed to have notice of any event of default hereunder (other than payment of the principal and interest on the Bonds) unless the Trustee shall be specifically notified in writing of such default by the Issuer or by the holders of at least twenty-five percent (25%) in aggregate principal amount of all Bonds then outstanding and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the principal corporate trust office of the Trustee, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid.

(h) At any and all reasonable times and upon reasonable prior written notice, the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect the Projects, and to take such memoranda from and in regard thereto as may be desired.

(i) The Trustee shall not be required to give any Bonds or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(j) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates,

opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee, deemed desirable for the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(k) Before taking any action under this Section 8.1 the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its gross negligence or willful misconduct in connection with any action so taken. Such indemnity shall survive the termination of this Indenture.

(l) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law. The Trustee shall not be under any liability for interest on any moneys received hereunder except such as may be agreed upon.

(m) If any event of default under this Indenture shall have occurred and be continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and shall use the same degree of care as a prudent man would exercise or use in the circumstances in the conduct of his own affairs.

Section 8.2. Fees, Charges and Expenses of the Trustee. The Trustee shall be entitled to payment and/or reimbursement for reasonable fees for its services rendered hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services and, in the event that it should become necessary for the Trustee to perform extraordinary services, the Trustee shall be entitled to reasonable additional compensation therefor and to reimbursement for reasonable and necessary extraordinary expenses in connection therewith (including without limitation attorney's fees and expenses); provided that if such extraordinary services or extraordinary expenses are occasioned by the gross negligence or willful misconduct of the Trustee it shall not be entitled to compensation or reimbursement therefor. Upon an event of default, but only upon an event of default, the Trustee shall have a right of payment prior to payment on account of interest on or principal of any Bond for the foregoing advances, fees, costs and expenses incurred.

Section 8.3. Notice to Bondholders if Default Occurs. If an event of default occurs of which the Trustee is by subsection (g) of Section 8.1 hereof required to take notice or if notice of an event of default be given as in said subsection (g) provided, then the Trustee shall give written notice thereof by registered or certified mail to the last known holders of all Bonds then outstanding shown by the list of Bondholders required by the terms of this Indenture to be kept at the office of the Trustee.

Section 8.4. Intervention by Trustee. In any judicial proceeding to which the Issuer is a party and which in the reasonable judgment of the Trustee and its counsel has a

substantial bearing on the interests of holders of the Bonds, the Trustee may intervene on behalf of Bondholders and, subject to the provisions of Section 8.1(k), shall do so if requested in writing by the Requisite Bondholders. The rights and obligations of the Trustee under this Section are subject to the approval of a court of competent jurisdiction.

Section 8.5. Successor Trustee. Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become successor Trustee hereunder and vested with all of the title to the whole property or trust estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 8.6. Resignation by the Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving thirty days' written notice to the Issuer and the Company and by registered or certified mail to each registered owner of Bonds then outstanding and to each holder of Bonds as shown by the list of Bondholders required by this Indenture to be kept at the office of the Trustee, and such resignation shall take effect at the end of such thirty (30) days, or upon the earlier appointment of a successor Trustee by the Bondholders or by the Issuer. Such notice to the Issuer and the Company may be served personally or sent by registered or certified mail.

Section 8.7. Removal of the Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee and to the Issuer and signed by all the Bondholders.

Section 8.8. Appointment of Successor Trustee by the Bondholders; Temporary Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the owners of a majority in aggregate principal amount of Bonds then outstanding, by an instrument or concurrent instruments in writing signed by such owners, or by their attorneys-in-fact, duly authorized; provided, nevertheless, that in case of such vacancy, the Issuer, by an instrument executed by one of its duly authorized officers, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed by the Bondholders in the manner above provided; and any such temporary Trustee so appointed by the Issuer shall immediately and without further act be superseded by the Trustee so appointed by such Bondholders. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or Bank, having a reported capital and surplus of not less than Fifty Million Dollars (\$50,000,000) if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

Section 8.9. Concerning Any Successor Trustees. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Issuer and the Company an instrument in writing accepting such appointment hereunder, and

thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the Issuer, or of its successor, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the Issuer be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article shall be filed by the successor Trustee in each office, if any, where the Indenture shall have been filed.

Section 8.10. Trustee Protected in Relying Upon Resolutions, etc. Subject to the conditions contained herein, the resolutions, ordinances, opinions, certificates and other instruments provided for in this Indenture may be accepted by the Trustee as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for the release of property and the withdrawal of cash hereunder.

(End of Article VIII)

ARTICLE IX.

SUPPLEMENTAL INDENTURES

Section 9.1. Supplemental Indentures Not Requiring Consent of Bondholders.

The Issuer and the Trustee may without the consent of, or notice to, any of the Bondholders, enter into an indenture or indentures supplemental to this Indenture; as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

- (a) To cure any ambiguity or formal defect or omission in this Indenture;
- (b) To grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondholders or the Trustee or any of them;
- (c) To subject to this Indenture additional revenues, properties or collateral;
- (d) To make any other change in this Indenture which, in the judgment of the Trustee, is not to the prejudice of the Trustee, the Issuer or the holders of the Bonds;
- (e) To modify, amend or supplement the Indenture in such manner as required to permit the qualification thereof under the Trust Indenture Act of 1939, as amended, or any similar Federal statute hereafter in effect, and, if they so determine, to add to the Indenture such other terms, conditions and provisions as may be required by said Trust Indenture Act of 1939, as amended, or similar federal statute; or
- (f) To achieve compliance with this Indenture with any applicable federal securities or tax law.

Section 9.2. Supplemental Indentures Requiring Consent of Bondholders.

Exclusive of supplemental indentures covered by Section 9.1 hereof, and subject to the terms and provisions contained in this Section, and not otherwise, the Requisite Bondholders shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Issuer and the Trustee of such other indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided however, that nothing in this section contained shall permit or be construed as permitting (except as otherwise permitted in this Indenture) (a) an extension of the stated maturity or reduction in the principal amount of, or reduction in the rate or extension of the time of paying of interest on, any Bonds, without the consent of the holder of such Bond, or (b) a reduction in the amount or extension of the time of any payment required by any sinking fund applicable to any Bonds without the consent of the holders of all the Bonds which would be affected by the action to be taken, or (c) a reduction in the aforesaid aggregate principal amount of Bonds the holders of

which are required to consent to any such supplemental indenture, without the consent of the holders of all the Bonds at the time outstanding which would be affected by the action to be taken, or (d) a modification of the rights, duties or immunities of the Trustee, without the written consent of the Trustee, or (e) a privilege or priority of any Bond over any other Bonds, or (f) deprive the owners of any Bonds then outstanding of the lien thereby created.

Anything herein to the contrary notwithstanding, a supplemental indenture under this Article which affects any rights of the Company shall not become effective unless and until the Company shall have consented in writing to the execution and delivery of such supplemental indenture. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such supplemental indenture together with a copy of the proposed supplemental indenture to be mailed by certified or registered mail to the Company at least fifteen (15) days prior to the proposed date of execution and delivery of any such supplemental indenture.

The Trustee shall be entitled to receive, and shall be fully protected in relying upon, the opinion of any counsel approved by it who may be counsel for the Company, as conclusive evidence that any such proposed supplemental indenture complies with the provisions of this Indenture, and that it is proper for the Trustee, under the provisions of this Article, to join in the execution of such supplemental indenture.

(End of Article IX)

ARTICLE X.

AMENDMENTS TO THE FINANCING AGREEMENT

Section 10.1. Amendments etc., to Financing Agreement Not Requiring Consent of Bondholders. The Issuer and the Trustee with the consent of the Company, and in accordance with Section 8.1 of the Financing Agreement, shall, without the consent of or notice to the Bondholders; consent to any amendment, change or modification of the Financing Agreement as may be required (i) by the provisions of the Financing Agreement and this Indenture, or (ii) for the purpose of curing any ambiguity or formal defect or omission therein, or (iii) in connection with any other change therein which, in the judgment of the Trustee, is not to the prejudice of the Trustee, the Issuer or the holders of the Bonds.

Section 10.2. Amendments etc., to Financing Agreement Requiring Consent of Bondholders. Except for the amendments, changes or modifications as provided in Section 10.1 hereof, neither the Issuer nor the Trustee shall consent to any other amendment, change or modification of the Financing Agreement without the written approval or consent of the Requisite Bondholders given and procured as provided in Section 9.2 hereof.

The Trustee shall be entitled to receive, and shall be fully protected in relying upon, the opinion of any counsel approved by it who may be counsel for the Company, as conclusive evidence that any such proposed amendment complies with the provisions of this Indenture and Financing Agreement, and that it is proper for the Trustee, under the provisions of this Article, to join in the execution of such amendment.

(End of Article X)

ARTICLE XI.

MISCELLANEOUS

Section 11.1. Satisfaction and Discharge. All rights and obligations of the Issuer and the Company under this Indenture shall terminate, and such instruments shall cease to be of further effect, and the Trustee shall execute and deliver all appropriate instruments evidencing and acknowledging the satisfaction of this Indenture, and shall assign and deliver to the Company any moneys and investments in the Project Fund and shall assign and deliver to the Issuer any moneys and investments held in any other Fund under this Indenture when:

- (a) all fees and expenses of the Trustee shall have been paid;
- (b) the Issuer shall have performed all of its covenants and promises in this Indenture; and
- (c) all Bonds theretofore authenticated and delivered (i) have become due and payable, or (ii) are to be retired or called for redemption under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee at the expense of the Issuer, or (iii) have been delivered to the Trustee canceled or for cancellation; and, in the case of (i) and (ii) above, there shall have been deposited with the Trustee either cash in an amount which shall be sufficient, or investments (but only to the extent that the full faith and credit of the United States of America are pledged to the timely payment thereof) the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee, shall be sufficient, to pay when due the principal or redemption price, if applicable, and interest due and to become due on the Bonds and prior to the redemption date or maturity date thereof, as the case may be.

Section 11.2. Application of Trust Money. All money or investments deposited with or held by the Trustee pursuant to Section 11.1 shall be held in trust for the holders of the Bonds, and applied by it, in accordance with the provisions of the Bonds and this Indenture, to the payment, either directly or through the Trustee, to the persons entitled thereto, of the principal and interest for whose payment such money has been deposited with the Trustee; but such money or obligations need not be segregated from other funds except to the extent required by law.

Section 11.3. Consents, etc., of Bondholders. Any consent, request, direction, approval, objection or other instrument required by this Indenture to be executed by the Bondholders may be in any number of concurrent writings of similar tenor and may be executed by such Bondholders in person or by agent appointed in writing. Provided, however, that wherever this Indenture requires that any such consent or other action be taken by the holders of a specified percentage, fraction or majority of the Bonds outstanding, any such Bonds held by or for the account of the Issuer shall not be deemed to be outstanding hereunder for the purpose of determining whether such requirement has been met. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing

any such agent and of the ownership of Bonds; if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken under such request or other instrument, namely:

(a) The fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of the holding by any person of Bonds transferable by delivery and the amounts and numbers of such Bonds, and the date of the holding of the same, may be proved by a certificate executed by any trust company, Bank or Bankers, wherever situated, stating that at the date thereof the party named therein did exhibit to an officer of such trust company or Bank or to such Banker, as the property of such party, the Bonds therein mentioned if such certificate shall be deemed by the Trustee to be satisfactory. The Trustee may, in its discretion, require evidence that such Bonds have been deposited with a Bank, Bankers or trust company, before taking any action based on such ownership. In lieu of the foregoing, the Trustee may accept other proofs of the foregoing as it shall deem appropriate.

For all purposes of this Indenture and of the proceedings for the enforcement hereof, such person shall be deemed to continue to be the holder of such Bonds until the Trustee shall have received notice in writing to the contrary.

Section 11.4. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture, or the Bonds is intended or shall be construed to give to any person other than the parties hereto, and the Company, and the holders of the Bonds, any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained, this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Company and the holders of the Bonds as herein provided.

Section 11.5. Severability. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or Sections in this Indenture contained, shall not affect: the remaining portions of this Indenture, or any part thereof.

Section 11.6. Notices. All notices, demands, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, with proper address as indicated below. The Issuer, the Company, and the Trustee may, by written notice given by each to the others, designate any address or addresses to which notices, demands, certificates or other communications to them shall be sent when required as contemplated by this Indenture. Until otherwise provided by the respective parties, all notices, demands, certificates and communications to each of them shall be addressed as follows:

To the Company: Metro FiberNet LLC
Attention: Tax Department
8829 Bond Street
Overland Park, KS 66214

To the Issuer: City of Westfield, Indiana
Attention: Mayor
130 Penn St.
Westfield, IN 46074

With a Copy To: City of Westfield, Indiana
Attention: Clerk-Treasurer
130 Penn St.
Westfield, IN 46074

To the Trustee: [Trustee]
Attention: _____

Section 11.7. Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.8. Applicable Law. This Indenture shall be governed exclusively by the applicable laws of the State of Indiana.

Section 11.9. Immunity of Officers and Directors. No recourse shall be had for the payment of the principal of or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement in this Indenture contained against any past, present or future members, officer, directors, agents, attorneys or employees of the Issuer, or any incorporator, member, officer, director, agents, attorneys, employees or trustee of any successor corporation, as such, either directly or through the Issuer or any successor corporation, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such incorporator, members, officers, directors, agents, attorneys; employees or trustees as such is hereby expressly waived and released as a condition of and consideration for the execution of this Indenture and issuance of such Bonds.

Section 11.10. Holidays. If any date for the payment of principal or interest on the Bonds is not a business day then such payment shall be due on the first business day thereafter.

(End of Article XI)

IN WITNESS WHEREOF, the City of Westfield, Indiana, has caused these presents to be signed in its name and behalf by its Mayor and its corporate seal to be hereunto affixed and attested by its Clerk-Treasurer, and to evidence its acceptance of the trusts hereby created, [Trustee] has caused these presents to be signed in its name and behalf by, and the same to be attested by, its duly authorized officers, all as of the day and year first above written.

CITY OF WESTFIELD, INDIANA

By: _____
Mayor

Attest:

Clerk-Treasurer

SEAL:

[TRUSTEE],
as Trustee

By: _____

Printed: _____

Title: _____

Attest:

By: _____

Printed: _____

Title: _____

[SIGNATURE PAGE OF THE TRUST INDENTURE]

EXHIBIT A

STATEMENT NO. _____ REQUESTING DISBURSEMENT OF FUNDS FROM
PROJECT FUND PURSUANT TO SECTION 4.3 OF THE TRUST INDENTURE
BETWEEN THE CITY OF WESTFIELD, INDIANA AND [TRUSTEE]
AND SECTION 3.7 OF THE FINANCING AGREEMENT BETWEEN
THE CITY OF WESTFIELD, INDIANA
AND METRO FIBERNET LLC

Pursuant to Section 4.3 of the Trust Indenture (the “Indenture”) dated as of February 1, 2015, between the City of Westfield, Indiana (the “Issuer”) and [Trustee] (the “Trustee”) and Section 3.7 of the Financing Agreement (the “Agreement”) between the Issuer and Metro FiberNet LLC (the “Company”), dated as of February 1, 2015, the undersigned, as the Authorized Representative (as defined in the Indenture) of the Company, hereby requests and authorizes the Trustee, as depository of the Project Fund created by and as defined in the Indenture to pay to the Company or to the person(s) listed on the Disbursement Schedule attached hereto out of the moneys on deposit in the Project Fund the aggregate sum of \$_____, to pay such person(s) or to reimburse the Company in full, as indicated in the Disbursement Schedule, for advances, payments and expenditures made by it in connection with the items listed in the Disbursement Schedule.

In connection with the foregoing request and authorization, the undersigned hereby certifies that:

(a) Each item for which disbursement is requested hereunder is properly payable out of the Project Fund in accordance with the terms and conditions of the Indenture and the Agreement and none of those items has formed the basis for any disbursement heretofore made from the Project Fund;

(b) Each such item is or was necessary in connection with the acquisition, construction, equipping, installation or improvement of the property comprising the Projects, as defined in the Indenture;

(c) This statement and all exhibits hereto, including the Disbursement Schedule, shall be conclusive evidence of the facts and statements set forth herein and shall constitute full warrant, protection and authority to the Trustee for its actions taken pursuant hereto; and

(d) This statement constitutes the approval of the Company of each disbursement hereby requested and authorized.

IN WITNESS WHEREOF, the authorized representative of the Company
has set his hand as of the _____ day of _____, 20_____.

METRO FIBERNET LLC, an Indiana limited
liability company

By: _____

Printed: _____

Its: _____

FINANCING AGREEMENT

BETWEEN

METRO FIBERNET, LLC

AND

CITY OF WESTFIELD, INDIANA

Dated as of February 1, 2015

Certain of the rights of the Issuer hereunder have been assigned to [Trustee], as trustee under a Trust Indenture dated as of the date hereof, from the Issuer.

TABLE OF CONTENTS

ARTICLE I DEFINITIONS AND EXHIBITS	2
Section 1.1. Terms Defined	2
Section 1.2. Rules of Interpretation	3
ARTICLE II REPRESENTATIONS; USE OF BOND PROCEEDS.....	4
Section 2.1. Representations by Issuer	4
Section 2.2. Representations by Company	4
ARTICLE III PARTICULAR COVENANTS OF THE ISSUER AND COMPANY	6
Section 3.1. Consent to Assignments to Trustee.....	6
Section 3.2. Payment of Principal and Interest/Payment of Taxes	6
Section 3.3. Maintenance of Existence	6
Section 3.4. Company Duties Under Indenture	6
Section 3.5. Indemnity	6
Section 3.6. Payment of Expenses of Issuance of Bonds	7
Section 3.7. Completion and Use of Projects	7
Section 3.8. Other Amounts Payable by the Company.....	8
ARTICLE IV [RESERVED]	9
ARTICLE V [RESERVED]	10
ARTICLE VI EVENTS OF DEFAULT AND REMEDIES THEREFOR.....	11
Section 6.1. Events of Default	11
Section 6.2. Remedies Cumulative	12
Section 6.3. Delay or Omission Not a Waiver.....	12
ARTICLE VII IMMUNITY	13
Section 7.1. Extent of Covenants of the Issuer; No Personal Liability.....	13

Section 7.2. Liability of Issuer	13
ARTICLE VIII SUPPLEMENTS AND AMENDMENTS TO THIS FINANCING AGREEMENT	14
Section 8.1. Supplements and Amendments to this Financing Agreement	14
ARTICLE IX MISCELLANEOUS PROVISIONS.....	15
Section 9.1. Financing Agreement for Benefit of Parties Hereto	15
Section 9.2. Severability	15
Section 9.3. Addresses for Notice and Demands	15
Section 9.4. Successors and Assigns.....	15
Section 9.5. Counterparts	16
Section 9.6. Governing Law	16

FINANCING AGREEMENT

This FINANCING AGREEMENT, dated as of February 1, 2015 (the “Financing Agreement”) between METRO FIBERNET, LLC, an Indiana limited liability company (the “Company”), and the CITY OF WESTFIELD, INDIANA (the “Issuer” or “City”), a municipal corporation duly organized and validly existing under the laws of the State of Indiana.

PRELIMINARY STATEMENT

WHEREAS, Indiana Code, Title 36, Article 7, Chapters 11.9 and 12, as supplemented and amended (collectively, the “Act”), authorizes and empowers the Issuer to issue revenue bonds and enter into agreements with companies to allow companies to construct economic development facilities and vests the Issuer with powers that may be necessary to enable it to accomplish such purposes; and

WHEREAS, after giving notice in accordance with the Act and IC 5-3-1, the Westfield Economic Development Commission held a public hearing and the Issuer, upon finding that the Projects (as defined herein) and the proposed financing of the acquisition, construction, equipping, installation and improvement thereof will retain employment opportunities in the City; will benefit the health and general welfare of the citizens of the City; will comply with the purposes and provisions of the Act, and adopted a resolution approving the proposed financing; and

WHEREAS, the Issuer intends to issue its Taxable Economic Development Revenue Bonds, Series 2015 (Metro FiberNet Project) in the aggregate principal amount of \$2,500,000, pursuant to the Trust Indenture dated as of February 1, 2015 from the Issuer to [Trustee], as trustee, and intends to provide the proceeds of the Bonds pursuant to the provisions of this Financing Agreement to the Company to finance the construction of facilities to house electronics and to install fiber optic cable that will provide high speed internet, telephone and television services to the City of Westfield, Indiana (the “Projects”); and

WHEREAS, this Financing Agreement provides for the use of the financing by the Company through the issuance by the Issuer of its Bonds; and

WHEREAS, pursuant to the Indenture, the Issuer will assign certain of its rights under this Financing Agreement as security for the Bonds. The Bonds issued under the Indenture will be payable solely from tax increment revenues of the Issuer’s Redevelopment Commission located in a designated area known as the “Gigabit Broadband Allocation Area.”

In consideration of the premises, the transfer of certain infrastructure to the Issuer, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Company and the Issuer hereby further covenant and agree as follows:

DEFINITIONS AND EXHIBITS

Section 1.1. Terms Defined. Capitalized terms used in this Financing Agreement that are not otherwise defined herein, shall have the meanings provided for such terms in the Indenture. As used in this Financing Agreement, the following terms shall have the following meanings unless the context clearly otherwise requires:

“Act” means, collectively, Indiana Code 36-7-11.9 and 36-7-12.

“Allocation Area” means the Gigabit Broadband Allocation Area established as an allocation area by the Redevelopment Commission, all in accordance with IC 36-7-14-39 and IC 37-7-14-39.3 for the purposes of capturing incremental *ad valorem* depreciable personal property taxes of the Company levied and collected in such allocation area.

“Bond Fund” means the City of Westfield, Indiana—Metro FiberNet Project, Bond Fund established by Section 4.2 of the Indenture.

“Bonds” means the Series 2015 Bonds.

“City” means the City of Westfield, Indiana.

“Company” means Metro FiberNet, LLC, or any successors thereto permitted under Section 9.4 hereof.

“Government Obligations” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the timely payment of the principal of and the interest on which are fully and unconditionally guaranteed by, the United States of America or any agency or instrumentally thereof when such obligations are backed by the full faith and credit of the United States of America.

“Indenture” means the Trust Indenture dated as of February 1, 2015, between the Issuer and the Trustee and all amendments and supplements thereto.

“Issuer” means the City of Westfield, Indiana, a municipal corporation duly organized and validly existing under the laws of the State.

“Projects” means the construction of facilities to house electronics and to install fiber optic cable that will provide high speed internet, telephone and television services to the City of Westfield, Indiana, all located within the Allocation Area.

“Project Fund” means the Project Fund for the Bonds established in Section 4.3 of the Indenture.

“Redevelopment Commission” means the Westfield Redevelopment Commission.

“Series 2015 Bondholder” or “owner of a Series 2015 Bond” or any similar term means the owner of a Series 2015 Bond.

“Series 2015 Bonds” means the City of Westfield, Indiana, Taxable Economic Development Revenue Bonds, Series 2015 (Metro FiberNet Project) in the aggregate principal amount not to exceed \$2,500,000.

“State” means the State of Indiana.

“TIF Revenues” means the property tax proceeds received by the Redevelopment Commission and pledged to the Issuer pursuant to a resolution adopted by the Redevelopment Commission on February 9, 2015 (the “Pledge”), from the assessed valuation of depreciable personal property of the Company in the Allocation Area, in excess of the assessed valuation described in IC 36-7-14-39(b)(1), as such statutory provision exists on the date of execution of the Indenture.

“Trustee” means the trustee at the time serving as such under the Indenture.

Section 1.2. Rules of Interpretation. For all purposes of this Financing Agreement, except as otherwise expressly provided, or unless the context otherwise requires:

(a) “This Financing Agreement” means this instrument as originally executed and as it may from time to time be supplemented or amended pursuant to the applicable provisions hereof.

(b) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Financing Agreement as a whole and not to any particular Article, Section or other subdivision.

(c) The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular and the singular as well as the plural.

(d) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as consistently applied.

(e) Any terms not defined herein but defined in the Indenture shall have the same meaning herein.

(f) The terms defined elsewhere in this Financing Agreement shall have the meanings therein prescribed for them.

(End of Article I)

ARTICLE II

REPRESENTATIONS; USE OF BOND PROCEEDS

Section 2.1. Representations by Issuer. Issuer represents and warrants that:

(a) The Issuer is a municipal corporation organized and existing under the laws of the State. Under the provisions of the Act, the Issuer is authorized to enter into the transactions contemplated by this Financing Agreement and to carry out its obligations hereunder. The Issuer has been duly authorized to execute and deliver this Financing Agreement. The Issuer agrees that it will do or cause to be done all things within its control and necessary to preserve and keep in full force and effect its existence.

(b) The Issuer shall issue its Bonds in the amount not to exceed \$2,500,000, to provide funds to the Company for the costs associated with the Project, subject to the consideration of the execution and delivery of this Financing Agreement, all for the benefit of the holders of the Bonds, to expand employment opportunities in the City and to benefit the health and general welfare of the citizens of the City, and to secure the Bonds by pledging certain of its rights and interest in this Financing Agreement to the Trustee.

Section 2.2. Representations by Company. Company represents and warrants that:

(a) It is a Nevada limited liability company validly existing under the laws of Nevada and authorized to do business in the State of Indiana, is not in violation of any laws in any manner material to its ability to perform its obligations under this Financing Agreement, has full power to enter into and by proper action has duly authorized the execution and delivery of this Financing Agreement.

(b) The provision of financial assistance to be made available to it under this Financing Agreement from the proceeds of the Bonds and the commitments therefor made by the Issuer have induced the Company to undertake the Projects and such project will increase jobs and employment opportunities within the boundaries of the City.

(c) Neither the execution and delivery of this Financing Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Financing Agreement, conflicts with or results in a breach of the terms, conditions or provisions of the Company's Operating Agreement or any restriction or any agreement or instrument to which the Company is now a party or by which it is bound or to which any of its property or assets is subject or (except in such manner as will not materially impair the ability of the Company to perform its obligations hereunder) of any statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or its property, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement, except as set forth in this Financing Agreement and the Indenture.

(d) There are no actions, suits or proceedings pending, or, to the knowledge of the Company, threatened, before any court, administrative agency or arbitrator which, individually or in the aggregate, might result in any material adverse change in the financial condition of the

Company or might impair the ability of the Company to perform its obligations under this Financing Agreement.

(e) No event has occurred and is continuing which with the lapse of time or the giving of notice would constitute an event of default under this Financing Agreement.

(End of Article II)

ARTICLE III

PARTICULAR COVENANTS OF THE ISSUER AND COMPANY

Section 3.1. Consent to Assignments to Trustee. The Company acknowledges and consents to the pledge and assignment of the Issuer's rights hereunder to the Trustee pursuant to the Indenture and agrees that the Trustee may enforce the rights, remedies and privileges granted to the Issuer hereunder other than the rights of the Issuer to execute and deliver supplements and amendments to this Financing Agreement pursuant to Section 8.1 hereof and in addition to the rights retained by the Issuer pursuant to Section 6.1(c) hereof as well as those rights granted to the Issuer under Section 3.6 hereof and Section 4.3 of the Indenture.

Section 3.2. Payment of Principal and Interest/Payment of Taxes. In accordance with the Indenture, the Bonds are payable solely and only from TIF Revenues (to the extent the Company has made property tax payments and there are any TIF Revenues) as pledged to the Issuer by the Redevelopment Commission pursuant to a resolution adopted by the Redevelopment Commission on February 9, 2015. Under no circumstances shall the Company be liable for making any payments due under the Bonds. In accordance with Section 4.4 of the Indenture, the Issuer shall transfer to the Trustee for deposit in the Series 2015 Bond Fund (as defined in the Indenture), on or before each February 1 and August 1, all of the TIF Revenues available, first to pay any interest due and outstanding, and then to pay as much principal as possible due on the Bonds on the next February 1 or August 1, together with Trustee fees as described in the Indenture.

Section 3.3. Maintenance of Existence. The Company agrees that it will maintain its existence as a limited liability company, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another entity, or permit one or more other corporations to consolidate or merge with it; provided, that the Company may, without violating the agreement contained in this Section, consolidate or merge with another entity, permit one or more other entities to consolidate or merge into it, or transfer to another entity organized under the laws of one of the states of the United States all or substantially all of its assets as an entirety and thereafter dissolve provided (a) the surviving, resulting or transferee entity, as the case may be, is organized under the laws of one of the states of the United States, and (b) such entity assumes in writing all of the obligations of the Company herein, including the obligations of the Company under this Financing Agreement.

Section 3.4. Company Duties Under Indenture. The Company agrees to perform all matters provided by the Indenture to be performed by the Company and to comply with all provisions of the Indenture applicable to the Company.

Section 3.5. Indemnity The Company will pay, and protect, indemnify and save the Issuer (including members, directors, officials, officers, agents, attorneys and employees thereof), the Bondholders and the Trustee harmless from and against, all third party liabilities, losses, damages, costs, expenses, causes of actions, suits, claims, demands and judgments of any nature directly arising from or directly relating to :

(a) Any material violation by the Company of any material agreement or material condition of this Financing Agreement or the Indenture;

(b) Any material violation of any material contract, agreement or restriction by the Company relating to the Projects, or a part thereof;

(c) Any material violation of any material law, ordinance or regulation by the Company arising out of the ownership, occupancy or use of the Projects, or a part thereof;

(d) Any negligent act, failure to act, or material misrepresentation by the Company, or any of the Company's agents, contractors, servants, employees or licensees; and

(e) The provision of any material information or certification furnished by the Company to the Bondholders in connection with the issuance and sale of the Bonds or the Projects.

The Company hereby further agrees to indemnify and hold harmless the Trustee from and against any and all third party costs, claims, liabilities, losses or damages whatsoever, asserted or directly arising out of or in connection with the acceptance or administration of the trusts established pursuant to the Indenture, except costs, claims, liabilities, losses or damages resulting from the negligence or misconduct of the Trustee. The indemnifications set forth herein shall survive the termination of the Indenture and/or the resignation or removal of the Trustee for so long as the Bonds are outstanding.

The foregoing shall not be construed to prohibit the Company from pursuing its remedies against either the Issuer or the Trustee for damages to the Company resulting from personal injury or property damage caused by the intentional misrepresentation or misconduct of either the Issuer or the Trustee.

Section 3.6. Payment of Expenses of Issuance of Bonds. The Issuer shall pay from the proceeds of the Bonds and from no other source, the costs of issuance of the Bonds.

Section 3.7. Completion and Use of Projects.

(a) Company agrees that it will, within 18 months of the closing of the Bonds, make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and in general do all things reasonably within its power, subject the economic feasibility of obtaining right of way, pole attachment and other third party rights in accordance with the Company's business model, which may be requisite or proper, all for the acquisition, construction, expansion, equipping and improvement of the Projects and, upon completion, the Company will operate and maintain the Projects in such manner as reasonably within Company's power so as to conform with all applicable zoning, planning, building, environmental and other applicable governmental regulations and so as to be consistent with the Act.

(b) The Issuer shall deposit all proceeds from the sale of the Bonds in the manner specified in Article III of the Indenture, and the Issuer shall maintain such proceeds in the manner specified in Article IV of the Indenture. Under the Indenture, the Trustee, on behalf of the Issuer, is authorized and directed to make payments from the Project Fund to pay for Projects, or to reimburse Company for any costs of the Project, and to pay the Costs of Issuance for the Bonds. The Company agrees to direct such requisitions to the Trustee as may be necessary to effect

payments out of the Project Fund, as the case may be, for costs of the Projects in accordance with Section 4.3 of the Indenture and this Section 3.7.

(c) The Company shall provide a final order certificate with respect to the Project in the manner provided in Section 4.3(a) of the Indenture and any moneys remaining in the Project Fund after completion of the Projects shall be transferred and applied in the manner therein provided.

Section 3.8. Other Amounts Payable by the Company. The Company covenants and agrees to pay the following:

(a) All reasonable fees, charges and expenses of the Trustee incurred under the Indenture, as and when the same become due to the extent TIF Revenues are not available, provided that the Company shall be reimbursed for such fees if TIF Revenues later become available.

(b) All reasonable costs incident to the payment of the principal of, premium, if any, and interest on the Bonds as the same become due and payable, including all reasonable costs and expenses in connection with the call, redemption and payment of Bonds to the extent TIF Revenues are not available, provided that the Company shall be reimbursed for such fees if TIF Revenues later become available.

(c) All other payments of whatever nature which the Company has agreed to pay or assume under the provisions of the Financing Agreement.

Notwithstanding anything in this Section 3.8 to the contrary, the Company may, without creating an event of default as herein defined, after making the payments required by this Section 3.8, contest in good faith the necessity for any such services, fees, charges or expenses of the Issuer or the Trustee.

(End of Article III)

ARTICLE IV

[RESERVED]

(End of Article IV)

ARTICLE V

[RESERVED]

(End of Article V)

ARTICLE VI

EVENTS OF DEFAULT AND REMEDIES THEREFOR

Section 6.1. Events of Default.

(a) It shall be an Event of Default upon the failure of the Company to perform any covenant, condition or provision hereof and to remedy such default within 30 days after notice thereof from the Trustee to the Company, unless the Requisite Bondholders shall have consented thereto.

(b) During the occurrence and continuance of any event of default hereunder, the Trustee, as assignee of the Issuer pursuant to the Indenture, and in addition to the rights retained by the Issuer as provided in Section 6.1(c) hereof, on behalf of any unpaid Bondholders shall have the rights and remedies hereinafter set forth, in addition to any other remedies herein or by law provided. It is agreed that the holders of all of the Bonds outstanding at any time may direct the Trustee, and the Trustee shall abide by such direction, with regard to the remedy or remedies to be pursued hereunder or under the Indenture. The Trustee, personally or by attorney, may in its discretion, proceed to protect and enforce its rights by a suit or suits in equity or at law, whether for damages or for the specific performance of any covenant or agreement contained in this Financing Agreement or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal or equitable remedy, as the Trustee shall deem most effectual to protect and enforce any of its rights or duties hereunder. If after any event of default occurs and prior to the Trustee exercising any of the remedies provided in this Financing Agreement, the Company will have completely cured such default, and shall have provided the Trustee with evidence thereof to the reasonable satisfaction of the Trustee, then in every case such default will be waived, rescinded and annulled by the Trustee by written notice given to the Company. No such waiver, annulment or rescission will affect any subsequent default or impair any right or remedy consequent thereon.

(c) Notwithstanding anything herein to the contrary, during the occurrence and continuance of an event of default by the Company arising from a breach of representations as set forth in Section 2.2 hereof, or a breach of the covenants of the Company set forth in Section 3.7 or 3.8 hereof, or the filing of a voluntary or involuntary petition in bankruptcy under the United States Bankruptcy Code, or proceeding under any other applicable laws concerning insolvency, reorganization or bankruptcy by or against the Company (collectively, the “Company’s Insolvency”), the Issuer may in its discretion, proceed to protect and enforce its rights under this Agreement by a suit or suits in equity or at law, whether for damages or for the specific performance. With the exclusion of a Chapter 11 filing under the United States Bankruptcy Code, the Company agrees that in the event of the Company’s Insolvency, it shall first offer for sale at fair market value (which value shall be determined by the average of two qualified appraisers, with one appraiser appointed by the Company and one appraiser appointed by the Issuer) of any and all assets of the Company to the Issuer, subject to all applicable laws, liens, easements and rights of creditors and the bankruptcy trustee, if any. Within thirty (30) days, the Issuer shall determine to exercise its option for such purchase and make payment therefor to the Company, and if it has not made such a determination and tendered such payment within said thirty (30) days, such offer for sale by the Company shall be void.

Section 6.2. Remedies Cumulative. No remedy herein conferred upon or reserved to the Trustee is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 6.3. Delay or Omission Not a Waiver. No delay or omission of the Trustee to exercise any right or power accruing upon any event of default shall impair any such right or power, or shall be construed to be a waiver of any such event of default or an acquiescence therein; and every power and remedy given by this Financing Agreement to the Trustee may be exercised from time to time and as often as may be deemed expedient by the Trustee.

(End of Article VI)

ARTICLE VII

IMMUNITY

Section 7.1. Extent of Covenants of the Issuer; No Personal Liability. No recourse shall be had for the payment of the principal of or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in the Bonds, the Indenture or this Financing Agreement against any past, present or future member, director, officer, agent, attorney or employee of the Issuer, or any incorporator, member, director, officer, employee, agent, attorney or trustee of any successor thereto, as such, either directly or through the Issuer or any successor thereto, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such incorporator, member, director, officer, employee, agent, attorney or trustee as such is hereby expressly waived and released as a condition of and consideration for the execution of the Indenture and this Financing Agreement (and any other agreement entered into by the Issuer with respect thereto) and the issuance of the Bonds.

Section 7.2. Liability of Issuer. Any and all obligations of the Issuer under this Financing Agreement are special, limited obligations of the Issuer, payable solely out of the TIF Revenues and the other revenues and income derived under this Financing Agreement and as otherwise provided under this Financing Agreement and the Indenture. The obligations of the Issuer hereunder shall not be deemed to constitute an indebtedness or an obligation of the Issuer, the State or any political subdivision or taxing authority thereof within the purview of any constitution limitation or provision, or a pledge of the faith and credit or a charge against the credit or general taxing powers, if any, of the Issuer, the State or any political subdivision or taxing authority thereof.

(End of Article VII)

ARTICLE VIII

SUPPLEMENTS AND AMENDMENTS TO THIS FINANCING AGREEMENT

Section 8.1. Supplements and Amendments to this Financing Agreement. Subject to the provisions of Article X of the Indenture, the Company and the Issuer may from time to time enter into such supplements and amendments to this Financing Agreement as to them may seem necessary or desirable to effectuate the purposes or intent hereof.

(End of Article VIII)

ARTICLE IX

MISCELLANEOUS PROVISIONS

Section 9.1. Financing Agreement for Benefit of Parties Hereto. Nothing in this Financing Agreement, express or implied, is intended or shall be construed to confer upon, or to give to, any person other than the parties hereto, their successors and assigns, any right, remedy or claim under or by reason of this Financing Agreement or any covenant, condition or stipulation hereof; and the covenants, stipulations and agreements in this Financing Agreement contained are and shall be for the sole and exclusive benefit of the parties hereto, their successors and assigns, and the Trustee.

Section 9.2. Severability. In case any one or more of the provisions contained in this Financing Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

Section 9.3. Addresses for Notice and Demands. All notices, demands, certificates or other communications hereunder shall be sufficiently given when received or your first refusal thereof and mailed by registered or certified mail, postage prepaid, or sent by nationally recognized overnight courier with proper address as indicated below. The Issuer, the Company and the Trustee may, by written notice given by each to the others, designate any address or addresses to which notices, demands, certificates or other communications to them shall be sent when required as contemplated by this Financing Agreement. Until otherwise provided by the respective parties, all notices, demands, certificates and communications to each of them shall be addressed as follows:

To the Issuer:	City of Westfield, Indiana Attention: Mayor 130 N. Penn St. Westfield, IN 46074
With a Copy To:	City of Westfield, Indiana Attention: Clerk-Treasurer 130 N. Penn St. Westfield, IN 46074
To the Company:	Metro Fibernet, LLC Attention: Legal Department 8837 Bond Street Overland Park, KS 66214

Section 9.4. Successors and Assigns. Whenever in this Financing Agreement any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included and all the covenants, promises and agreements in this Financing Agreement contained by or on behalf of the Company, or by or on behalf of the Issuer, shall bind and inure to the benefit of the respective successors and assigns, whether so expressed or not. Provided, however, the Company may not assign its rights or obligations under this Financing Agreement

without the consent of the Bondholders or the Issuer, which may be withheld in their absolute discretion.

Section 9.5. Counterparts. This Financing Agreement is being executed in any number of counterparts, each of which is an original and all of which are identical. Each counterpart of this Financing Agreement is to be deemed an original hereof and all counterparts collectively are to be deemed but one instrument.

Section 9.6. Governing Law. It is the intention of the parties hereto that this Financing Agreement and the rights and obligations of the parties hereunder shall be governed by and construed and enforced in accordance with, the laws of Indiana.

(End of Article IX)

IN WITNESS WHEREOF, the Issuer and the Company have caused this Financing Agreement to be executed in their respective names, and the Issuer and the Company have caused their corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

“THE COMPANY”

METRO FIBERNET, LLC

By: _____

Printed: _____

Title: _____

“THE ISSUER”

CITY OF WESTFIELD, INDIANA

Mayor

Attest:

Clerk-Treasurer

[SIGNATURE PAGE OF THE FINANCING AGREEMENT]

**WESTFIELD REDEVELOPMENT COMMISSION
DECLARATORY RESOLUTION NO. 6-2014**

**RESOLUTION OF THE CITY OF WESTFIELD REDEVELOPMENT COMMISSION
DECLARING AN AREA IN THE CITY OF WESTFIELD AS
AN ECONOMIC DEVELOPMENT AREA AND
APPROVING AN ECONOMIC DEVELOPMENT PLAN FOR SAID AREA**

WHEREAS, the City of Westfield, Indiana (the “City”), desires to undertake an economic development project that will assist the City in a project by Metro FiberNet, LLC, or its subsidiaries, affiliates, successors or assigns, to construct facilities to house electronics and to install fiber optic cable that will provide high speed internet, telephone and television services for the City (collectively, the “Metro FiberNet Project”); and

WHEREAS, the City of Westfield Redevelopment Commission (the “Commission”), governing body of the City of Westfield Department of Redevelopment (the “Department”), pursuant to Indiana Code 36-7-14, as amended (the “Act”), has thoroughly studied an area of the City, which area consists of the possible locations throughout the City of all depreciable personal property consisting of the actual space where new fiber optic cable will be laid due to the Metro FiberNet Project in the City, with such areas designated as the “Gigabit Broadband Allocation Area,” which area is also an economic development area (the “Economic Development Area”); and

WHEREAS, there has been presented to this meeting for consideration and approval of the Commission a development plan (the “Plan”) for the Economic Development Area and entitled “Gigabit Broadband Economic Development Plan—Economic Development Area” which Plan is attached hereto and incorporated herein by reference as Exhibit A; and

WHEREAS, to the extent relevant to the Metro FiberNet Project, the Commission has caused to be prepared maps and plats showing the boundaries of the Economic Development Area, the location of various parcels of property, streets, alleys, and other features affecting the replatting, replanning, rezoning, or redevelopment of the Economic Development Area, and the parts of the Economic Development Area that are to be devoted to public ways, sewerage and other public purposes under the Plan; and

WHEREAS, the Commission has caused to be prepared estimates of the costs of the development projects as set forth in the Plan; and

WHEREAS, the Plan and supporting data were reviewed and considered at this meeting; and

WHEREAS, Section 39 of the Act has been created and amended to permit the creation of “allocation areas” to provide for the allocation and distribution of property taxes for the purposes and in the manner provided in said section; and

WHEREAS, Sections 41 and 43 of the Act have been created to permit the creation of “economic development areas” and to provide that all of the rights, powers, privileges and immunities that may be exercised by this Commission in a redevelopment area or urban renewal area may be exercised in an economic development area, subject to the conditions set forth in the Act; and

WHEREAS, the Commission deems it advisable to apply the provisions of said Sections 39, 41, and 43 of the Act to the Plan and financing of the Plan.

NOW, THEREFORE, BE IT RESOLVED by the City of Westfield Redevelopment Commission, governing body of the City of Westfield Department of Redevelopment, as follows:

1. The Plan for the Economic Development Area promotes significant opportunities for the gainful employment of its citizens and meets other purposes of Sections 2.5, 41 and 43 of the Act, including without limitation benefiting public health, safety and welfare, increasing the economic well-being of the City and the State of Indiana (the “State”), and serving to protect and increase property values in the City and the State.

2. The Plan for the Economic Development Area cannot be achieved by regulatory processes or by the ordinary operation of private enterprise without resort to the powers allowed under Sections 2.5, 41 and 43 of the Act because of lack of local public improvements, including without limitation the cost of the projects contemplated by the Plan.

3. The public health and welfare will be benefited by accomplishment of the Plan for the Economic Development Area.

4. The accomplishment of the Plan for the Economic Development Area will be a public utility and benefit as measured by the attraction or retention of permanent jobs, an increase in the property tax base, improved diversity of the economic base and other similar public benefits.

5. The Plan for the Economic Development Area conforms to other development and redevelopment plans for the City.

6. The Commission pursuant to the requirements of Section 39(b) of the Act, after examining the Plan including the Findings of Fact contained therein attached hereto as Exhibit A, and taking testimony, further finds that the adoption of the allocation provisions of the Act will result in new property taxes in the Allocation Area (as hereinafter defined) that would not have been generated but for the adoption of the allocation provisions.

7. In support of the findings and determinations set forth in Sections 1 through 5 above, the Commission hereby adopts the specific findings set forth in the Plan.

8. The Plan does not recommend any specific property acquisition and the Department does not at this time propose to acquire any specific parcel of land or interests in land within the boundaries of the Economic Development Area. At the time the Department proposes to acquire specific parcels of land, the required procedures for amending the Plan under

the Act will be followed, including notice by publication and to affected property owners and a public hearing.

9. The Commission finds that no residents of the Economic Development Area will be displaced by any project resulting from the Plan, and therefore finds that it does not need to give consideration to transitional and permanent provisions for adequate housing for the residents.

10. The Plan is hereby in all respects approved, and the secretary of the Commission is hereby directed to file a certified copy of the Plan with the minutes of this meeting. The Economic Development Area is hereby designated as an "economic development area" under Section 41 of the Act.

11. The entire Economic Development Area is hereby designated as an "allocation area" pursuant to Section 39 of the Act for purposes of the allocation and distribution of property taxes for the purposes and in the manner provided by said Section. Any real property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in said allocation area shall be allocated and distributed as follows:

Except as otherwise provided in said Section 39, the proceeds of taxes attributable to the lesser of the assessed value of the property for the assessment date with respect to which the allocation and distribution is made, or the base assessed value, shall be allocated to and when collected paid into the funds of the respective taxing units. Except as otherwise provided in said Section 39, property tax proceeds in excess of those described in the previous sentence shall be allocated to the redevelopment district and when collected paid into an allocation fund for said allocation area that may be used by the redevelopment district to do one or more of the things specified in Section 39(b)(3) of the Act, as the same may be amended from time to time. Said allocation fund may not be used for operating expenses of the Commission. Except as otherwise provided in the Act, before July 15 of each year, the Commission shall take the actions set forth in Section 39(b)(4) of the Act.

12. The foregoing allocation provision shall apply to all of the Economic Development Area and shall expire on the date that is twenty-five (25) years after the date on which the first obligation is incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues. The base assessment date for the allocation area shall be March 1, 2014.

13. Said allocation area is hereby designated as the "Gigabit Broadband Allocation Area," and said allocation fund is hereby designated as the "Gigabit Broadband Allocation Fund."

14. Pursuant to Section 39.3 of the Act, the Commission designates as a "designated taxpayer" Metro FiberNet, LLC and its successors or assigns or any affiliate of Metro FiberNet, LLC and its successors or assigns (the "Designated Taxpayer").

15. The Commission hereby modifies the definition of property taxes in IC 36-7-14-39(a) for the purposes of including taxes imposed under IC 6-1.1 on the depreciable personal property of the designated taxpayer described above and all other depreciable property located

and taxable on the designated taxpayer's site of operations in the Allocation Area. This allocation provision shall expire on the date that is twenty-five (25) years after the date on which the first obligation is incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues.

16. The Commission finds that:

(a) The taxes to be derived from the Designated Taxpayer's depreciable personal property in the allocation area and all other depreciable property located and taxable on the designated taxpayer's site of operations within the allocation area in excess of the taxes attributable to the base assessed value of that personal property, are needed to pay debt service on bonds issued under IC 36-7-14-25.1, or to make payments or to provide security on leases payable under IC 36-7-14-25.2, in order to provide local public improvements for the particular allocation area;

(b) The taxpayer's property in the allocation area consists primarily of industrial, manufacturing, warehousing, research and development, processing, distribution, or transportation related projects; and

(c) The taxpayer's property in the allocation area does not consist primarily of retail, commercial or residential projects.

17. The officers of the Commission are hereby directed to make any and all required filings with the Indiana Department of Local Government Finance and the Hamilton County Auditor in connection with the creation of the allocation area.

18. The provisions of this Resolution shall be subject in all respects to the Act and any amendments thereto.

19. This Resolution, together with any supporting data and together with the Plan, shall be submitted to the Westfield-Washington Advisory Plan Commission (the "Plan Commission") and the Common Council of the City of Westfield (the "Common Council") as provided in the Act, and if approved by the Plan Commission and the Common Council, shall be submitted to a public hearing and remonstrance as provided by the Act, after public notice as required by the Act.

[Remainder of page intentionally left blank.]

ADOPTED AND PASSED THIS 15th DAY OF DECEMBER, 2014,
BY A VOTE OF 4 IN FAVOR AND 0 OPPOSED, BY THE
WESTFIELD REDEVELOPMENT COMMISSION, HAMILTON COUNTY, INDIANA.

By: Joseph Plankis
Joseph Plankis, President

By: Joseph E. Ingalls
Joseph E. Ingalls, Vice President

By: _____
Scott Robison, Secretary

By: Jill Doyle
Jill Doyle, Member

By: Doug Holz
Doug Holz, Member

ATTEST:

Matthew S. Skelton
Matthew S. Skelton, Esq.

This resolution prepared by:

James T. Crawford, Jr., Esq.
Krieg DeVault LLP
12800 North Meridian Street, Suite 300
Carmel, IN 46032
317.238.6239

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. /s/ James T. Crawford, Jr.

EXHIBIT A

**GIGABIT BROADBAND ECONOMIC DEVELOPMENT PLAN –
ECONOMIC DEVELOPMENT AREA
INCLUDING FINDINGS OF FACT**

CITY OF WESTFIELD, INDIANA

Gigabit Broadband Economic Development Area

Economic Development Plan

TABLE OF CONTENTS

REQUIRED FINDING OF FACTS TO SUPPORT THE STATUTORY REQUIREMENTS.....	2
FACTS.....	2
CITY OF WESTFIELD REDEVELOPMENT COMMISSION	3
THE PROCESS OF DESIGNATING AN ECONOMIC DEVELOPMENT AREA	5
EXAMPLES OF HOW THE CITY INTENDS TO MEET THE STATUTORY FINDINGS	6
FACTUAL REPORT IN SUPPORT OF FINDINGS CONTAINED IN RESOLUTION NO. 6-2014.....	8

**REQUIRED FINDING OF FACTS TO
SUPPORT THE STATUTORY REQUIREMENTS**

FACTS

1. The Economic Development Plan (the “Plan”) promotes significant opportunities for gainful employment of its citizens, attracts new major business enterprises to the City of Westfield, Indiana (the “City”), retains and expands significant business enterprises existing in the boundaries of the City, and meets other statutory purposes, as set forth in Indiana Code Sections 36-7-14-2.5 and 36-7-14-43.
2. The Plan for the Gigabit Broadband Economic Development Area (the “EDA”) cannot happen by regulatory process or by the ordinary operation of private enterprise because of the lack of public infrastructure or other similar conditions thereby necessitating the establishing of an allocation area to assist in the funding of the required infrastructure.
3. The public health and welfare will benefit by the accomplishment of the Plan for the EDA.
4. The achievement of the Plan for the EDA will constitute a public utility and will benefit as measured by the attraction or retention of permanent jobs, an increase in the property values, thus equating to increased assessed value (which herein is defined as “assessed value”), improved diversity of the economic base through the enhanced mix of property and other public benefits and the expansion of technology and high speed internet services to a significant portion of the City, which is in direct alignment with the goals of the City.
5. The Plan for the EDA conforms to other development and redevelopment plans for the City.
6. A representative of Metro FiberNet, LLC testified at the December 15, 2014 Redevelopment Commission meeting that building out a fiber optic system such as the one being proposed for the Metro FiberNet Project is extremely capital intensive and Metro FiberNet, LLC would not undertake the Project without the establishment of the Allocation Area and the resultant availability of TIF increment to assist with the cost of building out the Project.

ECONOMIC DEVELOPMENT PLAN
GIGABIT BROADBAND ECONOMIC DEVELOPMENT AREA
CITY OF WESTFIELD REDEVELOPMENT COMMISSION
FOR THE
CITY OF WESTFIELD

Purpose

This document is the City Economic Development Plan (the “Plan”) for the Gigabit Broadband Economic Development Area (the “EDA”) contained within the City. This document is intended to be approved by the Westfield City Plan Commission, the Westfield City Council and the City of Westfield Redevelopment Commission in conformance with IC-37-14.

Introduction

The Westfield area economic base was developed for the home of corporate headquarters, back office operations, high tech manufacturing, distribution operations, youth sports industry, logistics, technology driven businesses and high quality living. The Westfield area is where the talent lives and works. The area has a well-diversified base of employers headed by IMMI (550), Standard Locknut (167), Porter Engineer Systems (145) and Custom Concrete (136). Hamilton County is the largest suburban employment and residential hub in Central Indiana. The unemployment rate has remained lower than state and national rates throughout the recession. The current employment in Hamilton County is approximately 112,000.

Westfield was founded in 1834 and was incorporated as a town in 1848. In 2008, Westfield was incorporated as a city and its population is about 32,000 (2012). While Westfield has experienced rapid population growth since 1990, in recent years, it has suffered from a significant slowdown in its economy. New business growth, housing permits and new home starts stalled and city revenue growth was flat for several years. During the slowdown, Westfield constructed a \$45 million outdoor portion of the 400 acre Grand Park and is recruiting quality shops, restaurants, hotels, businesses and other commercial development to increase and diversify its tax base. The City Council has recently approved a \$25 million plan for the private/public development of an indoor facility at Grand Park. The indoor arena will bring year-round activity to Grand Park that will foster economic development and grow the tax base. Also, to foster quality growth, Westfield has embarked on major downtown revitalization projects. Stakeholders continue to expect and demand high quality infrastructure, community services,

education, businesses, jobs, housing and technology investments to meet their quality of life expectations in Westfield.

To remain competitive and continue to move forward in achieving its goal for Westfield to be a destination and grow its tax base, the need for sufficient bandwidth and high speed telecommunications is essential. The Google like fiber Gigabit City project proposed by Metro FiberNet, LLC to bring Gigabit services to the premise will provide Westfield 21st century communications infrastructure that will facilitate the efforts to enhance the opportunities for the existing workforce and businesses, as well as assist in the attraction of new enterprises and enhance the overall quality of life. .

Description of the Area

The Area is located within the boundaries of Westfield. (See Appendix A for the detailed maps of the Area. Yellow lines represent projected locations of Metro FiberNet overhead infrastructure and blue lines represent projected locations of Metro FiberNet underground infrastructure.) It is the intention of this Plan to create an allocation area within the Area that consists solely of all of the personal property of Metro FiberNet, which personal property consists of fiber optic cable and associated fiber equipment that will be placed either on poles or underground, depending upon where the existing utilities lay. The allocation area will, by definition, be where the personal property of Metro FiberNet exists, and can move when the fiber optic cable is moved. The designation of the Area is to delineate where the fiber optic cable and associated fiber equipment may be located, but is not in and of itself the allocation area.

Project Description

Metro FiberNet Potential Project List Within TIF Area / EDA

The personal property to be captured as the allocation area will consist of:

1. New fiber optic cable and associated fiber equipment installed by Metro FiberNet ;
2. Pre-cast concrete equipment storage building and fiber cabinets that are classified as personal property in locations to be determined; and
3. Electronic and optical equipment within the equipment storage building and cabinets.

THE PROCESS OF DESIGNATING AN ECONOMIC DEVELOPMENT AREA

The following represents a general narrative summary of the sequence of actions to be undertaken in support of the designation of the EDA. Each step will be reviewed by the legal staff of the City of Westfield, by Bond Counsel and the Financial Advisor.

After formation of the Plan, it will be submitted to the Redevelopment Commission of the City of Westfield for consideration and approval. Upon presentation and discussion, the Redevelopment Commission may approve the Plan in its entirety, make modifications to the Plan and approve the Plan as amended, or reject the Plan and the designation of an EDA.

Declaratory Resolution

If the Redevelopment Commission desires to approve the Plan, it will pass a Declaratory Resolution of the Redevelopment Commission. The Declaratory Resolution declares the intent of the Redevelopment Commission to create an EDA.

Plan Commission Review

After passing the Declaratory Resolution, the Redevelopment Commission must then submit the Plan to the City of Westfield Plan Commission for review to assure that it conforms to the plan of development for the City. The Plan Commission's task is to affirm that the Plan conforms to the plan of development of each jurisdiction as contained in the Comprehensive Plan. The Plan can propose an alteration of land use or zoning to any of the jurisdictions in response to a specific economic development proposal, but if it does so, such alteration or rezoning must be approved by the Plan Commission. This Plan was developed in compliance with the current Comprehensive Plan and no deviation is anticipated.

City Council Approval

Upon receiving approvals of the Redevelopment Commission and the Plan Commission, the Plan must be submitted to the City of Westfield Common Council for approval before it can be implemented. The City Council may reject the Plan or approve the Plan. The City Council also must approve the Redevelopment Commission's determination that the Area is an economic development area under the redevelopment statute.

Notice of Public Hearing and Tax Impact Statement

Upon receipt of approval by the City Council, the Redevelopment Commission must publish a notice of the adoption of the Declaratory Resolution and the date upon which the Redevelopment Commission will conduct a public hearing thereon, which must be no sooner than 10 days following the publication of the notice. The Redevelopment Commission also must deliver a copy of the notice, along with a statement disclosing the impact of the Area, to each taxing unit that is wholly or partially located in the Area.

Confirmatory Resolution

The Redevelopment Commission must then conduct the public hearing and pass a Confirmatory Resolution which confirms the Redevelopment Commission's intention to designate the EDA as set forth in the Plan. The Redevelopment Commission is not required to take this action, but may consider whether the Area designation is still appropriate. If the Redevelopment Commission passes the Confirmatory Resolution, the EDA is then finally declared and designated.

Bond Counsel for the project will assure that all necessary and appropriate filings and administrative actions are taken. It is, therefore, important that the various agencies, bodies, elected officials and the general public understand the limitations which are imposed on subsequent decision and actions by these various agencies and bodies.

EXAMPLES OF HOW THE CITY INTENDS TO MEET THE STATUTORY FINDINGS

Metro FiberNet

The fiber optic system planned by Metro FiberNet (and its affiliated companies including, but not limited to, Metro FiberNet, LLC) will enhance economic development and improve the overall financial health of Westfield by enhancing efforts to expand and diversify the economy by attracting 21st century businesses which rely upon technology and require sufficient bandwidth in order to locate in Westfield. Also, it will directly create 8 to 10 jobs with an annual payroll of approximately \$ 400,000 to \$500,000 within the Westfield Area.

It is crucial to the long term fiscal health and quality of life of Westfield that we are positioned to attract these technology driven businesses especially those in logistics, advanced manufacturing, technology centers, corporate and back office operations. The local workforce is trained in these vocations and additional training will improve skill levels to a degree commensurate with those required in the aforementioned industries.

Financing the Projects

It is the intention of the Redevelopment Commission to create a Tax Incremental Finance ("TIF") District and to capture the incremental depreciable personal property within the EDA in order to finance the necessary projects. The TIF District must be established by March 1, 2015 so that the Redevelopment Commission may receive funds in 2015. If this does not occur, the already formed Redevelopment Commission will not be able to meet the needs that are projected to occur shortly.

It will be necessary to issue bonds sometime in the near future, based on the incremental *ad valorem* property taxes allocated under IC 36-7-14-39, in order to raise money for completion of the Projects in the Area.

The financing will be used for part, or all, of the following:

- (1) All reasonable and necessary architectural, engineering, and construction, equipment, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and development of the Project or the issuance of bonds;
- (2) Interest on, and principal of, the bonds issued by the Commission for the project; and
- (3) Expenses that the Commission is required or permitted to pay under IC 8-23-17.

Metro FiberNet has estimated the total cost of their project within the City of Westfield will about \$10 to \$15 million.

Based upon the estimated investment of depreciable personal property to be located within the various taxing districts, Metro FiberNet, LLC would be requesting assistance through the issuance of TIF Revenue Bonds by the City Westfield in an estimated aggregate amount not to exceed \$2 million with a term not to exceed 25 years. The Bonds, when issued, would be paid solely from the incremental revenues generated within the Area and would not cause a general or moral obligation on the part of the Redevelopment Commission or the City.

Amendment of the Plan

By following the procedures specified in IC 36-7-14-15 the Redevelopment Commission may amend the Plan for the Area.

**FACTUAL REPORT IN SUPPORT OF FINDINGS
CONTAINED IN RESOLUTION NO. 6-2014**

1. The Plan for the Gigabit Broadband Economic Development Area (the "Area") will promote significant opportunities for growth and the gainful employment of citizens of the City by providing the means to extend state of the art fiber optic lines and high speed internet services to the Area. This 21st century infrastructure is necessary to attract employers engaged in quality high technology operations, back office, corporate offices, corporate headquarters, sports related industries, logistics, hotels and residential development. This infrastructure will improve Westfield's ability to attract employers as follows:
 - A. To locate in the Area, entities require sites that are shovel ready with all required infrastructure, including Gigabit broadband services. This Plan provides for the public funding of the fiber optic lines and electronic equipment required to bring high speed (Gigabit) internet services throughout the Area.
 - B. The Plan provides for these services to be brought to publicly owned sites that are developed or will be developed as shovel ready sites suitable for development by entities that are engaged in logistics, back office operations, corporate offices, high technology, health care and quality living.
2. The Plan:
 - A. Will promote significant opportunities for the gainful and quality employment of the citizens of the City;
 - B. Is likely to attract major new business and home grown enterprises as a result of the existence of fiber optic broadband services (with Gigabit services to the home);
 - C. Enables the use of public funding to guide infrastructure design and construction and thus development in the Area to promote basic employment and mixed uses of the land, to an extent individual property owners would not otherwise attain.
 - D. Benefits the public health, safety, morals and welfare of the citizens of Westfield, the County and State as follows: The Plan, when fully implemented, will add high speed (Gigabit) broadband services that are required in the transmission of medical records. Development of this 21st century infrastructure will permit the City to approach land use development, public services, resources and public investments in a positive manner; and

- E. Increases the economic well being of the City and the State of Indiana in direct alignment with elected officials, at every level of government, and local stakeholders public statements of promoting economic development opportunity in Indiana through the extension of 21st century broadband services throughout the state.
- 3. The planning and development of the Area will benefit the public health, safety morals and welfare; it will increase the economic well being of the City and serve to protect and increase property values in both the City and the State of Indiana.
 - A. The Plan will create new employment opportunities;
 - B. The Plan will diversify the local economy and add employment opportunities that do not now exist and cannot exist without the addition of 21st century Gigabit broadband; and
 - C. Fiber optic Gigabit broadband services are not available in vacant land within the Area. The Plan promotes development throughout the Area.
- 4. The Plan for the Area cannot be achieved by the regulatory processes or by ordinary operation of private enterprise without resorting to IC 36-7-14 (the Redevelopment statutes) because of the lack of public improvements, the existence of geological impediments to industrial development and multiple ownership of land.
- 5. The accomplishment of the Plan for the Area will be of public utility benefit, for the following reasons. First, it is estimated that the full development of the Area, pursuant to the Plan will allow for the immediate attraction of approximately 8 to 10 permanent high tech jobs in the Westfield Area by January 2016. The foregoing estimate is based upon representation of Metro FiberNet, LLC. Secondly, current employers in Westfield have indicated a need for updated fiber optic Gigabit broadband services to transmit engineering, medical records, graphics, books and technical information. The expectation is that hundreds of local jobs will be preserved, retained and attracted as a result of implementation of the Plan. This information has been developed through discussions with a number of community stakeholders. It is also estimated that, when fully developed in accordance with the Plan, the assessed value for Depreciable Personal Property will be increased by approximately \$15 million within the Westfield Area. The foregoing estimate is based upon representations of Metro FiberNet, LLC.
- 6. The Commission believes that the TIF District will generate, over time, along with federal, state and local funds, sufficient monies to fully implement the Plan.

7. Metro FiberNet, LLC has represented to the City that building out a fiber optic system such as the one being proposed for the Metro FiberNet Project is extremely capital intensive and Metro FiberNet, LLC would not undertake the Project without the establishment of the Allocation Area and the resultant availability of TIF increment to assist with the cost of building out the Project.

APPENDIX A

PROJECTED LOCATIONS OF THE METRONET INFRASTRUCTURE



Yellow lines represent projected locations of Metro FiberNet overhead infrastructure and blue lines represent projected locations of Metro FiberNet underground infrastructure.

Westfield City Council December 22, 2014

The Westfield City Council met Monday, December 22, 2014 at the Westfield City Hall. Members present were Council President, Jim Ake, Steve Hoover, Bob Smith, Chuck Lehman, Cindy Spoljaric and Rob Stokes. Also present were Clerk Treasurer Cindy Gossard and Legal Counsel Brian Zaiger.

Mayor Cook called the meeting to order at 9:00 a.m.

Approval of Minutes:

Cindy Spoljaric made a motion to approve the December 8, 2014 minutes as amended. Steve Hoover seconded. Vote: Yes-6; No-0. Motion carries.

Guest:

None

Claims:

Bob Smith made a motion to approve the claims. Rob Stokes seconded. Vote: Yes-6; No-0. Motion carries.

Miscellaneous Business/Special Presentation

None

Old Business:

None

New Business:

Resolution 14-137: 2014 Year End Transfers

Adoption Consideration – December 8, 2014

Brian Zaiger presented the Resolution to the Council explaining the need for the year end transfers.

Bob Smith made the motion to approve the Resolution. Seconded by Cindy Spoljaric. Vote: Yes-6; No-0 motion carries.

CITY COUNCIL COMMENTS:

Steve Hoover and Chuck Lehman gave update on Indiana Sports Properties.

Jim Ake thanked everyone for their work on the Pawn Shop Ordinance.

MAYOR COMMENTS:

The Mayor congratulated Bruce Hauk, with Indiana American Water on his promotion to President of Illinois Water Co.

Steve Hoover made a motion to adjourn. Bob Smith seconded. Vote: Yes-6; No-0.

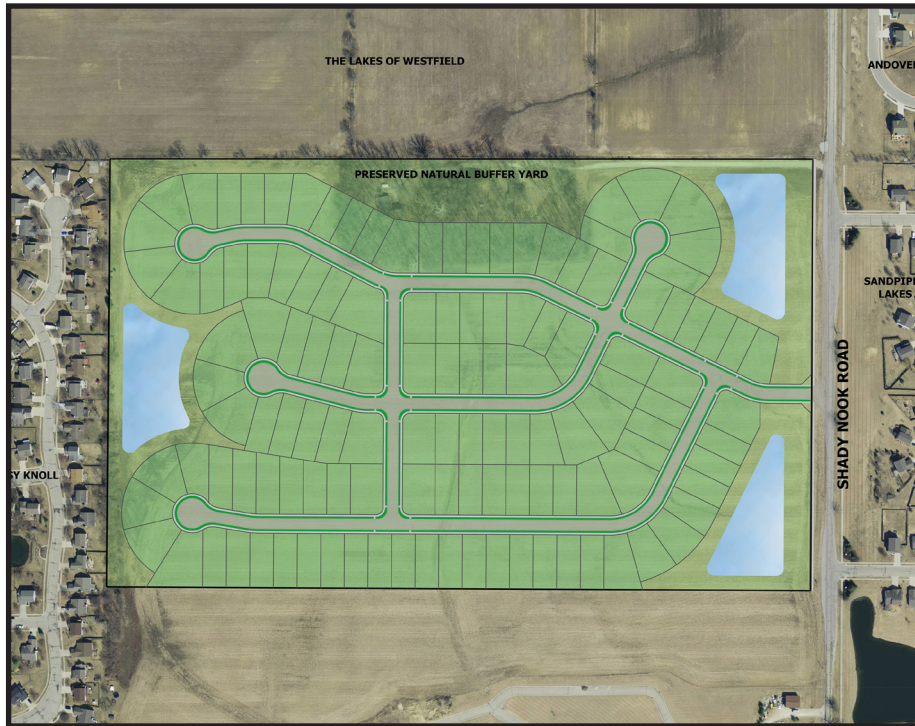
With no further business the meeting was adjourned at 9:15 a.m.

Clerk-Treasurer

President

PRIOR CONCEPT PLAN

12.01.2014



REVISED CONCEPT PLAN

12.15.2014





Westfield City Council Report

Ordinance Number:	14-51
APC Petition Number:	1412-PUD-17
Petitioner:	Langston Development, LLC by Faegre Baker Daniels, LLP
Requested Action:	A change of zoning from the AG-SF1: Agriculture / Single-Family Rural District to the Sheffield Park Planned Unit Development (PUD) District.
Current Zoning:	AG-SF1: Agriculture / Single-Family Rural District
Current Land Use:	Residential / Agricultural
Exhibits:	1. Staff Report 2. Location Map 3. Concept Plan Exhibit 4. PUD District Ordinance 5. Neighbor Meeting Summary 6. APC Certification
Prepared by:	Jeffrey M. Lauer, Associate Planner

PETITION HISTORY

This petition was introduced at the November 10, 2014, City Council meeting. The petition received a public hearing at the December 1, 2014, Advisory Plan Commission (the "APC") meeting. The APC forwarded this petition with a unanimous favorable recommendation at its December 15, 2014, meeting. This petition is eligible for adoption consideration at the January 12, 2015, Council meeting.

PROCEDURAL

Public Hearing: Changes in zoning are required to be considered at a public hearing by the APC. The public hearing for this petition was held on December 1, 2014, at the APC meeting. Notice of the public hearing was provided in accordance with Indiana law and the APC's Rules of Procedure.

Neighbors' Meeting: The Petitioner hosted a meeting for adjoining property owners on November 13, 2014, as required by Article 10.9(C)(1)(f) of the UDO for proposed PUD Districts. The Petitioner has provided a summary of that meeting, which is included at **Exhibit 6**.

Statutory Considerations:

Indiana Code 36-7-4-603 states that in the consideration of zoning ordinance amendments and zone map changes that reasonable regard shall be paid to:

1. The Comprehensive Plan.
2. Current conditions and the character of current structures and uses.
3. The most desirable use for which the land is adapted.
4. The conservation of property values throughout the jurisdiction.
5. Responsible growth and development.

PROJECT OVERVIEW

Project Location: The subject property (the “Property”) is approximately fifty three (53) acres located north of State Road 32, between Grassy Branch Road and Shady Nook Road (see **Exhibit 2**). The Property is currently zoned AG-SF1: Agriculture / Single-Family Rural District.

Project Description: The Petitioner is requesting a change of zoning to a Planned Unit Development (PUD) District to be known as “Sheffield Park”, that would allow for a single-family residential neighborhood, as illustrated on the revised Concept Plan (see **Exhibit 3**).

Default Standards: The proposed PUD District Ordinance (the “PUD Ordinance”) (see **Exhibit 5**), defaults to the recently adopted Westfield – Washington Township Unified Development Ordinance (the “UDO”), with the **SF4: Single Family High Density District** as the Underlying Zoning District.

Permitted Uses: The PUD Ordinance permits those uses permitted by the Underlying Zoning District.

Development Standards: As proposed, the PUD Ordinance establishes enhanced or alternative development standards from the Underlying Zoning District (Chapter 6 of the UDO). These modifications are intended to accommodate the unique environmental characteristics of the Property and the Petitioner’s vision for the development. The development standards of note are briefly highlighted below:

1. Side Yard Setback: The PUD Ordinance modifies the eight (8) foot side yard setback required by the UDO to five (5) feet.
2. Architectural Standards (Article 6.3): The PUD Ordinance incorporates enhanced architectural standards, including the incorporation of Character Exhibits to establish the benchmark for the quality and character of the development. The PUD Ordinance also increases the Minimum Living Area square footage requirements and prohibits vinyl siding as a Building Material. The Petitioner has modified the PUD Ordinance and referenced the Character Exhibits.
3. Amenities: In response to comments during the public hearing, the Petitioner has incorporated standards in the PUD Ordinance to require a minimum of two (2) amenities from the list of amenities incorporated into the proposed PUD Ordinance.
4. Landscaping Standards (Article 6.8): The PUD Ordinance: (a) defaults to the landscaping standards required by the UDO and (b) establishes that “Tree Preservation Easement(s)” shall serve as the required buffer yard for those areas shown on the Concept Plan.
5. South Property Line: In response to comments made during the public hearing and in working with the Department, the petitioner has added language to the PUD Ordinance that requires at least one of the following:

- a. Enhanced architectural treatment to the rear of future Dwellings (pursuant to Article 6.3(C)(b)) which shall apply to the ten (10) lots shown with asterisks on the Concept Plan; or,
- b. Landscape screening which shall apply to the lots shown with asterisks on the Concept Plan which shall include:
 - i. Three (3) shade trees and three (3) evergreen trees per lot within thirty (30) feet of the Rear Lot Line

Design Standards: As proposed, the PUD Ordinance establishes enhanced or alternative design standards from the Underlying Zoning District (Chapter 8 of the UDO). These modifications are intended to accommodate the unique environmental characteristics of the Property and the Petitioner's vision for the development. The design standards of note are briefly highlighted below:

1. Street and Right-of-Way Standards (Article 8.9): The UDO requires that "[s]treets shall align and connect with existing or planned streets and provide for connections with adjacent property. Proposed streets, where appropriate, shall be extended to the boundary line of the tract to be developed so as to provide for normal circulation of traffic within the vicinity. Regard shall be given to the Thoroughfare Plan and Comprehensive Plan. Cul-de-sacs are discouraged and shall only be permitted where such street continuation is prevented due to topography or other physical condition, or unless such extension is found by the Plan Commission to be unnecessary for the coordination of development within the development or between the development and adjoining property."

In working with the Department and pursuant to the above cited requirement, the Petitioner has provided connectivity between the Lakes of Westfield subdivision to the north of the Property and the proposed Sheffield Park PUD District.

2. Open Space (Article 8.6): The PUD Ordinance increases the minimum required amount of open space from 16% (for SF4 Districts) to 20%. The Petitioner has incorporated a requirement into the PUD Ordinance for preserved Natural Areas and Open Space as an amenity.

Comprehensive Plan: The Future Land Use Plan in the Westfield-Washington Township Comprehensive Plan (the "Comprehensive Plan") identifies the Property as "Suburban Residential". The Comprehensive Plan is not law; rather, it is intended to serve as a guide in making land use decisions; however, below is a general summary of the goals and objectives of the Comprehensive Plan for this Property:

The development policies for "Suburban Residential" include: (i) promote the protection of the existing suburban character of the area; (ii) ensure that new development adjacent to existing suburban is properly buffered; (iii) ensure development occurs in a way that is contiguous with existing development; (iv) design developments such that back yards are not adjacent to collector or arterial streets unless uniform attractive screening is provided; (v) prevent monotony of design and color that applies to the collective impact of an entire development; (vi) emphasize connectivity between subdivisions, and avoid creating isolated islands of development; (vii) encourage quality and useable open space; (viii) encourage development of bicycle and pedestrian facilities in new development to improve connectivity; and (ix) land that is characterized by steep slopes or other natural limitations should be left natural or developed at rural, rather than suburban densities.

The development policies for “residential design standards” include: (i) encourage neighborhoods that do not have the appearance of “production” housing; (ii) evaluate new residential development on the basis of overall density and the relationship that density to effective and usable open space preservation, rather than on lot sizes; and (iii) encourage variety and diversity in housing while maintaining a distinct style or character and avoiding the appearance of “cookie cutter” subdivisions.

The development policies for “open space and recreation” include: (i) design open space to form an interconnected network, with provisions or linkages to existing or potential open space; (ii) maintain and preserve stream corridors, woodlands, hedge rows, or other valuable natural and historic resources; (iii) provide parks and recreational facilities in new development to accommodate the needs of the community as it grows; and (iv) recognize that in addition to the amount of open space, that the location and configuration of open space is of importance and should not be an afterthought based on a determination of unusable land.

PUBLIC HEARING COMMENTS

The public comments presented at the public hearing are summarized in the APC’s minutes of the December 1, 2014, meeting ([linked here](#)). The Petitioner’s summary of their revisions in response to those comments received from the Department, the Plan Commission, and neighbors is included in the Petitioner’s Update, attached hereto as **Exhibit 7**.

RECOMMENDATIONS / ACTIONS

APC Recommendation

At its December 15, 2014, meeting, the APC forwarded a unanimous favorable recommendation of this petition to the Council (Vote of: 7 in favor, 0 opposed) (see **Exhibit 8**).

City Council

Introduction: November 10, 2014

Eligible for Adoption: January 12, 2015

Submitted by: Jeffrey M. Lauer, Associate Planner
Economic and Community Development Department

Location Map

Sheffield Park Planned Unit Development District

1412-PUD-17 (Ordinance No. 14-51)



Not To Scale

Location Map

Site



Zoning Map



Zoning

AG-SF1 (Agriculture - Single Family - 1)	LB (Local Business)
GB (General Business)	LB-PD (Local Business - Planned Development)
GB-PD (General Business - Planned Development)	PUD (Planned Unit Development)
GO (General Office)	SF-2 (Single Family - 2)
	SF-4 (Single Family - 4)

PRIOR CONCEPT PLAN

12.01.2014



REVISED CONCEPT PLAN

12.15.2014



ORDINANCE NUMBER 14-51

AN ORDINANCE OF THE CITY OF WESTFIELD AND WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA CONCERNING AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE

This is a Planned Unit Development District Ordinance (to be known as the “**SHEFFIELD PARK PUD DISTRICT**”) to amend the Unified Development Ordinance of the City of Westfield and Washington Township, Hamilton County, Indiana (the "Unified Development Ordinance"), enacted by the City of Westfield pursuant to its authority under the laws of the State of Indiana, Ind. Code § 36-7-4 et seq., as amended.

WHEREAS, the City of Westfield, Indiana (the "City") and the Township of Washington, both of Hamilton County, Indiana are subject to the Unified Development Ordinance;

WHEREAS, the Westfield-Washington Advisory Plan Commission (the "Commission") considered a petition (**Petition No. 1412-PUD-17**), requesting an amendment to the Unified Development Ordinance and to the Zoning Map with regard to the subject real estate more particularly described in **Exhibit A** attached hereto (the "Real Estate");

WHEREAS, the Commission forwarded **Petition No. 1412-PUD-17** to the Common Council of the City of Westfield, Hamilton County, Indiana (the "Common Council") with a favorable recommendation (7-0) in accordance with Indiana Code § 36-7-4-608, as required by Indiana Code § 36-7-4-1505;

WHEREAS, the Secretary of the Commission certified the action of the Commission to the Common Council on _____, 2014;

WHEREAS, the Common Council is subject to the provisions of the Indiana Code §36-7-4-1507 and Indiana Code § 36-7-4-1512 concerning any action on this request; and

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Westfield, Hamilton County, Indiana, meeting in regular session, that the Unified Development Ordinance and Zoning Map are hereby amended as follows:

Section 1. Applicability of Ordinance.

- 1.1 The Unified Development Ordinance and Zoning Map are hereby changed to designate the Real Estate as a Planned Unit Development District to be known as the “**Sheffield Park PUD District**” (the “District”).
- 1.2 Development of the Real Estate shall be governed by: (i) the provisions of this Ordinance and its exhibits; and (ii) the provisions of the Unified Development

Ordinance, as amended and applicable to the Underlying Zoning District or a Planned Unit Development District, except as modified, revised, supplemented or expressly made inapplicable by this Ordinance.

- 1.3 Chapter (“*Chapter*”) and Article (“*Article*”) cross-references of this Ordinance shall hereafter refer to the section as specified and referenced in the Unified Development Ordinance.
- 1.4 All provisions and representations of the Unified Development Ordinance that conflict with the provisions of this Ordinance are hereby made inapplicable to the Real Estate and shall be superseded by the terms of this Ordinance.

Section 2. Definitions. Capitalized terms not otherwise defined in this Ordinance shall have the meanings ascribed to them in the Unified Development Ordinance.

- 2.1 Underlying Zoning District: The Zoning District of the Unified Development Ordinance that shall govern the development of this District and its various subareas, as set forth in Section 4 of this Ordinance.
- 2.2 Trail: Any pedestrian or nature trail internal to the District that is used by pedestrians, hikers, or pets. A trail may be paved or maintained in a natural state (e.g., gravel, rock, grass or mulch).

Section 3. Concept Plan. The Concept Plan, attached hereto as **Exhibit B**, is hereby incorporated in accordance with *Article 10.9(F)(2) Planned Unit Development Districts; PUD District Ordinance Requirements; Concept Plan*. The Real Estate shall be developed in substantial compliance with the Concept Plan.

Section 4. Underlying Zoning District(s). The Underlying Zoning District of this District shall be the **SF-4: Single Family High Density District**. Except as modified, revised, supplemented or expressly made inapplicable by this Ordinance, the standards of the Underlying Zoning District, as set forth above, shall apply.

Section 5. Permitted Uses. All uses permitted in the Underlying Zoning District, as set forth in *Chapter 4* and *Chapter 13* shall be permitted.

Section 6. General Regulations. The standards of *Chapter 4: Zoning Districts*, as applicable to the Underlying Zoning District, shall apply to the development of the District, except as otherwise modified below.

- 6.1 Minimum Building Setback Line for a Side Yard: 5 feet
- 6.2 Minimum Lot Width: 65 feet.

6.3 Maximum Building Height: Two and one-half (2 ½) stories.

6.4 Minimum Living Area:

1. Single Story: 1,500 square feet.
2. Two Story: 1,700 square feet.

Section 7. Development Standards. The standards of *Chapter 6: Development Standards* shall apply to the development of the District, except as otherwise modified below.

7.1 *Article 6.3 Architectural Standards*: Shall apply. In addition, the following shall also apply:

- A. Character Exhibit. The Character Exhibit, attached hereto as **Exhibit C**, is hereby incorporated as a compilation of images designed to capture the intended quality of structures to be constructed in the District. Although the exhibits do not necessarily represent the final design or specify a required architectural style or element, they do hereby establish a benchmark for the quality and appearance of structures that are permitted to be constructed and that contribute to the District's intent and vision. It is not the intent to limit the architectural styles shown in Exhibit C, but to encourage diversity in architectural styles of Dwellings within the District. The Department shall determine whether a structure is consistent with the established benchmark and complies with the standards of this Ordinance. The Department's decision may be appealed to the Plan Commission.
- B. Building Materials: In addition to *Article 6.3(C)(3) Building Materials*, the following shall apply: Vinyl and aluminum siding shall be prohibited.
- C. Garages: All Dwellings shall have a minimum of a two (2) car attached garage.

7.2 *Article 6.8 Landscaping Standards*: Shall apply, except as otherwise modified below.

- A. *Article 6.8(N) Buffer Yard Requirements* shall only apply in the areas labelled "Buffer Yard" on the Concept Plan. Additionally, the existing vegetation, labeled as "Preserved Natural Buffer Yard" on the Concept Plan, shall be preserved pursuant to *Article 6.8(E)* and satisfy the required Buffer Yard planting materials in these areas. A tree preservation easement shall be established within the Preserved Natural Buffer Yard. Within this tree preservation easement, no trees with a diameter at breast height ("DBH") in excess of four inches (4") or more (the "Protected Trees") shall be removed unless the tree is damaged, diseased, dead, or is to be removed in order to: (1) comply with safety requirements of any

governmental agency; or (2) to accommodate the installation of drainage, utilities, street connections or other infrastructure. If a Protected Tree is damaged or otherwise removed by the developer or builder, except as permitted to be removed as listed above, then the developer or builder shall reestablish the Protected Tree with a tree or trees of combined equal or greater DBH subject to the availability of space for their healthy growth in the tree preservation area.

- B. Lots marked with an asterisk (*) on the Concept Plan shall provide at least one of the following:
 - i. Three (3) shade trees and three (3) evergreen trees per lot within 30' of the Rear Lot Line. The trees shall be located either on the Real Estate or on the property directly south of the Real Estate. If the trees are located on the property directly south of the Real Estate, then a recorded landscape easement shall be established, and the trees shall be planted within the easement; or
 - ii. Rear Building Façade Enhancements, as prescribed in *Article 6.3(C)(b)(i)(b)*.

Section 8. Infrastructure Standards. The District's infrastructure shall comply with the Unified Development Ordinance and the City's Construction Standards (see *Chapter 7: Subdivision Regulations*), unless otherwise approved by the Plan Commission or Department of Public Works in consideration of the preservation of the natural topography and environment and in consideration to the unique design intent of the District.

Section 9. Design Standards. The standards of *Chapter 8: Design Standards* shall apply to the development of the District, except as otherwise modified below.

- 9.1 *Article 8.6 Open Space and Amenity Standards* shall apply; however, the Minimum Open Space for the District shall be enhanced to require a minimum of twenty percent (20%). All Open Space shall be common area and deeded to and maintained by a homeowners' association.

Section 10. Amenities. Amenities shall be provided in accordance with this section.

- 10.1 At least two (2) of the following shall be included within the District:
 - A. Clubhouse (minimum of 650 square feet);
 - B. Swimming pool;
 - C. Playground;
 - D. Open Space or park (minimum of 5,000 square feet);

- E. Trail;
 - F. Basketball court;
 - G. Volleyball court;
 - H. Picnic area.
- 10.2 In the event the construction of the District is phased, at least one (1) amenity shall be constructed in each of the first two (2) phases.
- 10.3 The Overall Development Plan shall identify the area(s) to be set aside for amenities. The specific details of the amenity areas (Detailed Development Plans) shall be reviewed by the Department for further compliance at the time of the Improvement Location Permit review.

ALL OF WHICH IS ORDAINED/RESOLVED THIS ## DAY OF _____, 2014.

WESTFIELD CITY COUNCIL

Voting For

Voting Against

Abstain

Jim Ake

Jim Ake

Jim Ake

Steven Hoover

Steven Hoover

Steven Hoover

Robert L. Horkay

Robert L. Horkay

Robert L. Horkay

Charles Lehman

Charles Lehman

Charles Lehman

Robert J. Smith

Robert J. Smith

Robert J. Smith

Cindy L. Spoljaric

Cindy L. Spoljaric

Cindy L. Spoljaric

Robert W. Stokes

Robert W. Stokes

Robert W. Stokes

ATTEST:

Cindy Gossard, Clerk Treasurer

I hereby certify that **ORDINANCE 14-51** was delivered to the Mayor of Westfield
on the _____ day of _____, 2014, at _____ m.

Cindy Gossard, Clerk-Treasurer

I hereby APPROVE **ORDINANCE 14-51**

this _____ day of _____, 2014.

J. Andrew Cook, Mayor

I hereby VETO **ORDINANCE 14-51**

this _____ day of _____, 2014.

J. Andrew Cook, Mayor

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law: Jeffrey M. Lauer, Associate Planner, City of Westfield.

This document prepared by: Jim Langston, Langston Residential Development, LLC., 1132 S. Rangeline Road, Carmel, IN 46032 (317) 846-7017.

SCHEDULE OF EXHIBITS

Exhibit A Real Estate (Legal Description)

Exhibit B Concept Plan

Exhibit C Character Exhibit

EXHIBIT A
REAL ESTATE

ZONING DESCRIPTION

A part of the Southwest Quarter of Section 32, Township 19 North, Range 4 East, in Washington Township, Hamilton County, Indiana, more particularly described as follows:

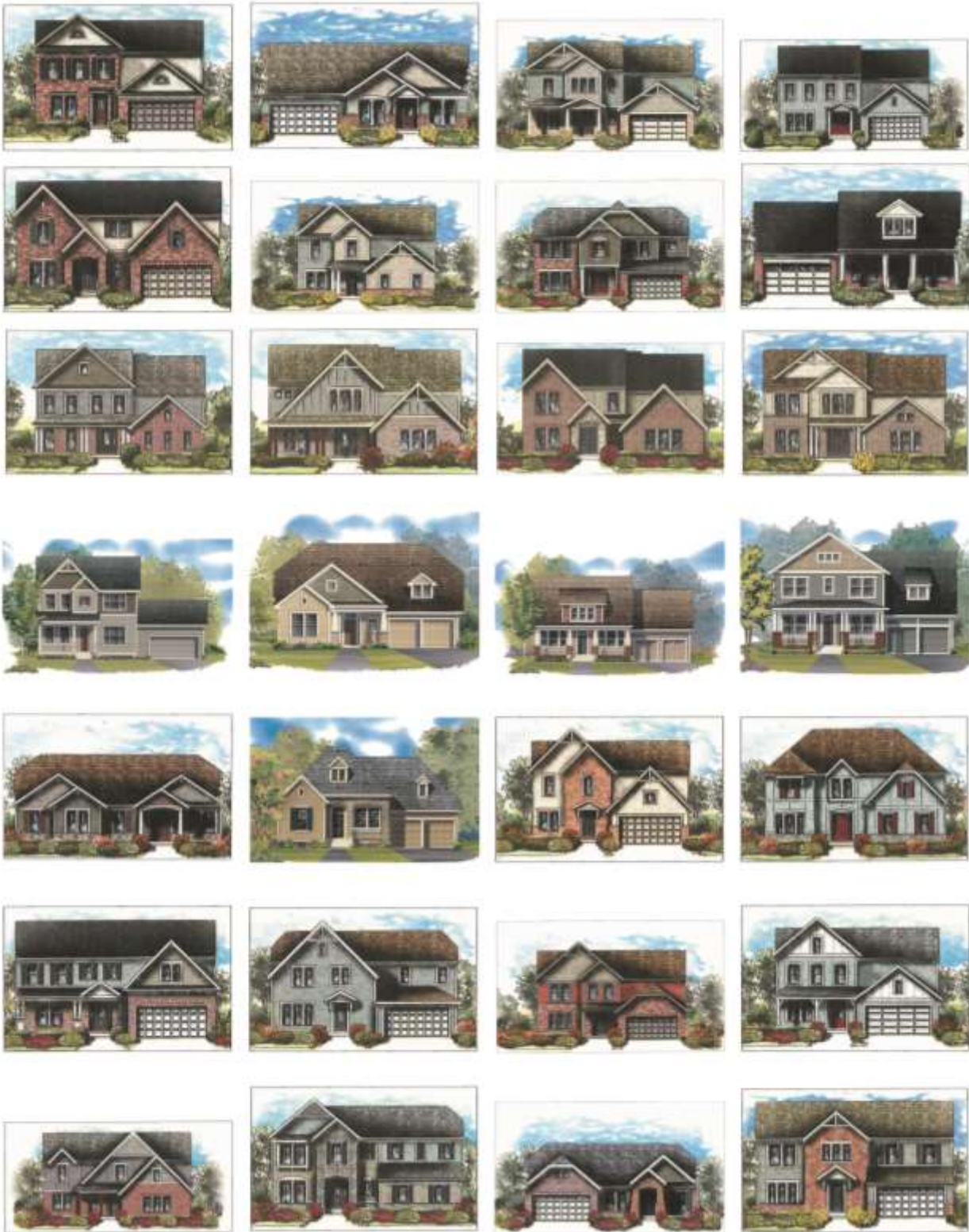
Beginning at the Northeast corner of said Quarter Section; thence South along the East line thereof a distance of 1,190 feet; thence West a distance of 1,940 feet to a point on the East property line of Grassy Knoll Subdivision; thence North along said East line of Grassy Knoll Subdivision a distance of 1,190 feet to a point on the North line of said Quarter Section; thence East along said North line a distance of 1,940 feet to the place of beginning, containing 53.0 acres more or less.

This legal description is for zoning purposes only and subject to change upon the completion of a boundary survey.

EXHIBIT B
CONCEPT PLAN



EXHIBIT C
CHARACTER EXHIBIT



Neighbor Meeting Summary

Project: Sheffield Park
Date: Thursday, November 13, 2014
Location: Brookside Clubhouse

1. In attendance: 2 neighbors, 1 City Councilor (Robert Stokes), Kevin Todd with the City of Westfield, representatives from Langston Development, LLC ("Langston"), Steve Hardin and Alyson Oliver of Faegre Baker Daniels.
2. Langston is proposing a single-family neighborhood consisting of 125 homesites on 53 acres +/- . Illustrative elevations showing the quality and character of the proposed homes (included in the proposed PUD Ordinance) were provided to the neighbors.
3. The neighbors in attendance at the meeting were interested in the proposed neighborhood and asked questions about the general plan for the neighborhood. Some of the questions included:
 - a. What are some examples of neighborhoods featuring the homes shown in the illustrative elevation exhibit?
 - i. Langston provided the following answer: Some of the homes are being built in Village at Brookside on Olio Road, which is just south of 86th Street in McCordsville, and in Reserve at Somerset on Smokey Row Road, which is west of SR 135 in Johnson County. The other homes are from Charlotte, and they have not been built in this market, yet.
 - b. Will there be a wall between Sheffield Park and Grassy Knoll? (the neighbor that asked this question did not want one)
 - i. Langston provided the following answer: No.
 - c. Can the City help construct a path in front of their neighborhood (Grassy Knoll) along Grassy Branch Road so that it would connect to the north and south paths?

**WESTFIELD-WASHINGTON TOWNSHIP ADVISORY
PLAN COMMISSION CERTIFICATION**

The Westfield-Washington Township Advisory Plan Commission held a public hearing on Monday, December 1, 2014, to consider an amendment to the Zoning Map and Westfield-Washington Township Unified Development Ordinance. Notice of the public hearing was advertised and noticed in accordance with Indiana law and the Advisory Plan Commission's Rules of Procedure. Notice was shown to have been published in a newspaper of general circulation in Hamilton County, Indiana. The petition is as follows:

Docket No.	1412-PUD-17
Ordinance No.	14-51
Petitioner	Langston Development, LLC
Description	Langston Residential Development, LLC requests a change in zoning of approximately 53 acres+/-, generally located north of SR 32 between Grassy Branch Road and Shady Nook Road, from the AG-SF1: Agriculture/Single-Family Rural District to the Sheffield Park Planned Unit Development (PUD) District.

On December 15, 2014, a motion was made and passed to send a unanimous favorable recommendation to the City Council regarding this petition (Vote: 7 in favor, 0 opposed).

The above-mentioned proposal and the Advisory Plan Commission's recommendation thereof are hereby certified.



Matthew S. Skelton, Secretary

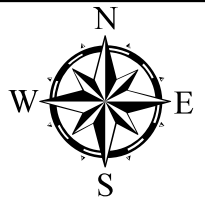
December 16, 2014

Date

Location Map

Sheffield Park Planned Unit Development District

1412-PUD-17 (Ordinance No. 14-51)



Not To Scale

Location Map

Site



Zoning Map



Zoning

- | | |
|--|--|
| AG-SF1 (Agriculture - Single Family - 1) | LB (Local Business) |
| GB (General Business) | LB-PD (Local Business - Planned Development) |
| GB-PD (General Business - Planned Development) | PUD (Planned Unit Development) |
| GO (General Office) | SF-2 (Single Family - 2) |
| | SF-4 (Single Family - 4) |



Westfield City Council Report

Ordinance Number:	14-50
APC Petition Number:	1412-PUD-18
Petitioner:	Langston Development, LLC by Faegre Baker Daniels, LLP
Requested Action:	A change of zoning from the AG-SF1: Agriculture / Single-Family Rural District to the Mapleridge Planned Unit Development (PUD) District.
Current Zoning:	AG-SF1: Agriculture / Single-Family Rural District
Current Land Use:	Residential / Agricultural
Exhibits:	1. Staff Report 2. Location Map 3. Concept Plan Exhibit 4. PUD District Ordinance 5. Neighbor Meeting Summary 6. Public Comments (written) 7. Petitioner's Update 8. APC Certification
Prepared by:	Jesse M. Pohlman, Senior Planner

PETITION HISTORY

This petition was introduced at the November 10, 2014, City Council meeting. The petition received a public hearing at the December 1, 2014, Advisory Plan Commission (the "APC") meeting. The APC forwarded this petition with a unanimous favorable recommendation at its December 15, 2014, meeting. This petition is eligible for adoption consideration at the January 12, 2015, Council meeting.

PROCEDURAL

Public Hearing: Changes in zoning are required to be considered at a public hearing by the APC. The public hearing for this petition was held on December 1, 2014, at the APC meeting. Notice of the public hearing was provided in accordance with Indiana law and the APC's Rules of Procedure.

Neighbors' Meeting: The Petitioner hosted a meeting for adjoining property owners on November 13, 2014, as required by Article 10.9(C)(1)(f) of the UDO for proposed PUD Districts. The Petitioner has provided a summary of that meeting, which is included at **Exhibit 5**.

Statutory Considerations:

Indiana Code 36-7-4-603 states that in the consideration of zoning ordinance amendments and zone map changes that reasonable regard shall be paid to:

1. The Comprehensive Plan.
2. Current conditions and the character of current structures and uses.
3. The most desirable use for which the land is adapted.
4. The conservation of property values throughout the jurisdiction.
5. Responsible growth and development.

PROJECT OVERVIEW

Project Location: The subject property (the “Property”) is approximately sixty (60) acres located on the east side of Oak Road, north of 151st Street (see **Exhibit 2**). The Property is currently zoned AG-SF1: Agriculture / Single-Family Rural District.

Project Description: The Petitioner is requesting a change of zoning to a Planned Unit Development (PUD) District to be known as “Mapleridge”, that would allow for a single-family residential neighborhood, as illustrated on the revised Concept Plan (see **Exhibit 3**). The Petitioner characterizes the proposed development to be similar to the Brookside subdivision.

Default Standards: The proposed PUD District Ordinance (the “PUD Ordinance”) (see **Exhibit 4**), defaults to the recently adopted Westfield – Washington Township Unified Development Ordinance (the “UDO”), with the **SF2: Single Family Low Density District** as the Underlying Zoning District.

Permitted Uses: The PUD Ordinance permits those uses permitted by the Underlying Zoning District.

Development Standards: As proposed, the PUD Ordinance establishes enhanced or alternative development standards from the Underlying Zoning District (Chapter 6 of the UDO). These modifications are intended to accommodate the unique environmental characteristics of the Property and the Petitioner’s vision for the development. The development standards of note are briefly highlighted below:

1. Oak Road Lot: There is one “estate” lot located at the northwest corner of the Property that would not be a part of the rest of the development and would be accessed from Oak Road. As a result, provisions are included to accommodate this lot.
2. Architectural Standards (Article 6.3): The PUD Ordinance incorporates enhanced architectural standards, including the incorporation of Character Exhibits to establish the benchmark for the quality and character of the development. The PUD Ordinance also increases the Minimum Living Area square footage requirements.

In response to comments received, the referenced Character Exhibits also incorporate side and rear facades so the established benchmark also applies to the rear and side facades of homes. As a result of the revisions to the Concept Plan since the Council introduction, the rear of homes will no longer be oriented towards Oak Road.

3. Landscaping Standards (Article 6.8): The PUD Ordinance: (a) increases the required number of shrubs per Lot; (b) addresses the overlap of the perimeter External Street Frontage Landscaping with the frontage road and floodplain; and (c) establishes that preserved natural areas shall serve as the required buffer yard for those areas shown on the Concept Plan.

Design Standards: As proposed, the PUD Ordinance establishes enhanced or alternative design standards from the Underlying Zoning District (Chapter 8 of the UDO). These modifications are intended to accommodate the unique environmental characteristics of the Property and the Petitioner's vision for the development. The design standards of note are briefly highlighted below:

1. Street and Right-of-Way Standards (Article 8.9): In working with the Department, Public Works Department, and the Fire Department, the Petitioner has modified the Concept Plan since the Council introduction. The revised Concept Plan now includes a loop road (rather than cul-de-sac) and stub street at the southeast corner of the property.

The loop road is planned as one-way street that will better accommodate (compared to the prior design) emergency response equipment while also allowing for the preservation of existing trees. The cross-section and final design of the loop road will be determined in coordination with the Fire Department and Public Works Department at the time of the overall development plan and primary plat review.

The Concept Plan also includes two stub street locations, which are generally located at the northeast and southeast corners of the property. The exact location of the stub streets may vary at the time of the primary plat review, but the requirement for the stub has been included in the revised ordinance to meet the UDO's requirement for connectivity to adjacent properties. In addition, language has been added to the proposed ordinance to require a pedestrian and alternative emergency access path to connect the proposed frontage road to Oak Road.

2. Open Space (Article 8.6): The PUD Ordinance increases the minimum required amount of open space from 8% (for SF2 Districts) to 16%.

In working with the Department, the Petitioner has incorporated a requirement into the PUD Ordinance for trails internal to the development. The potential locations of internal trails have been depicted on the revised Concept Plan. The exact location will be determined at the time of the overall development plan and primary plat review upon final engineering; however, in response to comments from neighbors, the PUD Ordinance includes language that prohibits these trails along the north property line of the District. Trails internal to the District will provide access and connectivity of the preserved Natural Areas and Open Space so these areas better function as an amenity.

3. Floodplain: The Concept Plan has been revised as a result of the new Flood Insurance Rate Maps (FIRM), which became effective on November 19, 2014. The exact location of the floodplain will be reviewed at the time of the overall development plan and primary plat review. Any proposed development that would be determined to occur within the floodplain will be subject to both local and state regulations, including review and approval by the State of Indiana and the City of Westfield (see Article 5.5 Floodplain Overlay District of the UDO).

Comprehensive Plan: The Future Land Use Plan in the Westfield-Washington Township Comprehensive Plan (the "Comprehensive Plan") identifies the Property as "Suburban Residential". The Comprehensive Plan is not law; rather, it is intended to serve as a guide in making land use decisions; however, below is a general summary of the goals and objectives of the Comprehensive Plan for this Property:

The development policies for "Suburban Residential" include: (i) promote the protection of the existing suburban character of the area; (ii) ensure that new development adjacent to existing suburban is properly buffered; (iii) ensure development occurs in a way that is contiguous with existing development; (iv) design developments such that back yards are not adjacent to collector or arterial streets unless uniform attractive screening is provided; (v) prevent

monotony of design and color that applies to the collective impact of an entire development; (vi) emphasize connectivity between subdivisions, and avoid creating isolated islands of development; (vii) encourage quality and useable open space; (viii) encourage development of bicycle and pedestrian facilities in new development to improve connectivity; and (ix) land that is characterized by steep slopes or other natural limitations should be left natural or developed at rural, rather than suburban densities.

The development policies for “residential design standards” include: (i) encourage neighborhoods that do not have the appearance of “production” housing; (ii) evaluate new residential development on the basis of overall density and the relationship that density to effective and usable open space preservation, rather than on lot sizes; and (iii) encourage variety and diversity in housing while maintaining a distinct style or character and avoiding the appearance of “cookie cutter” subdivisions.

The development policies for “open space and recreation” include: (i) design open space to form an interconnected network, with provisions or linkages to existing or potential open space; (ii) maintain and preserve stream corridors, woodlands, hedge rows, or other valuable natural and historic resources; (iii) provide parks and recreational facilities in new development to accommodate the needs of the community as it grows; and (iv) recognize that in addition to the amount of open space, that the location and configuration of open space is of importance and should not be an afterthought based on a determination of unusable land.

PUBLIC HEARING COMMENTS

The written comments submitted in advance of the APC public hearing are attached hereto as **Exhibit 6**. The public comments presented at the public hearing are summarized in the APC’s minutes of the December 1, 2014, meeting ([linked here](#)). The Petitioner’s summary of their revisions in response to those comments received from the Department, the Plan Commission, and neighbors is included in the Petitioner’s Update, attached hereto as **Exhibit 7**.

RECOMMENDATIONS / ACTIONS

APC Recommendation

At its December 15, 2014, meeting, the APC forwarded a unanimous favorable recommendation of this petition to the Council (Vote of: 7 in favor, 0 opposed) (see **Exhibit 8**).

City Council

Introduction: November 10, 2014

Eligible for Adoption: January 12, 2015

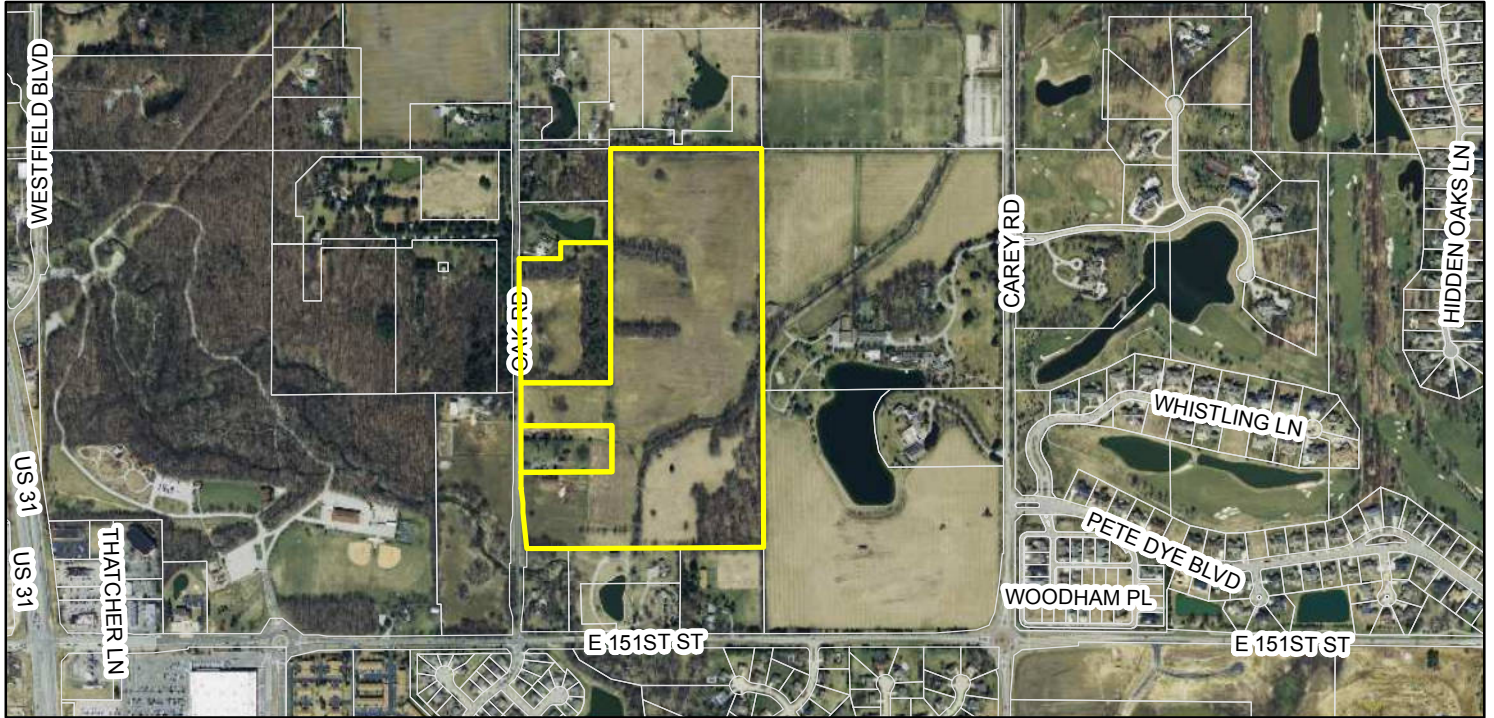
Submitted by: Jesse M. Pohlman, Senior Planner
Economic and Community Development Department

Property Location Map
Mapleridge Planned Unit Development District
1412-PUD-18 (Ordinance No. 14-50)

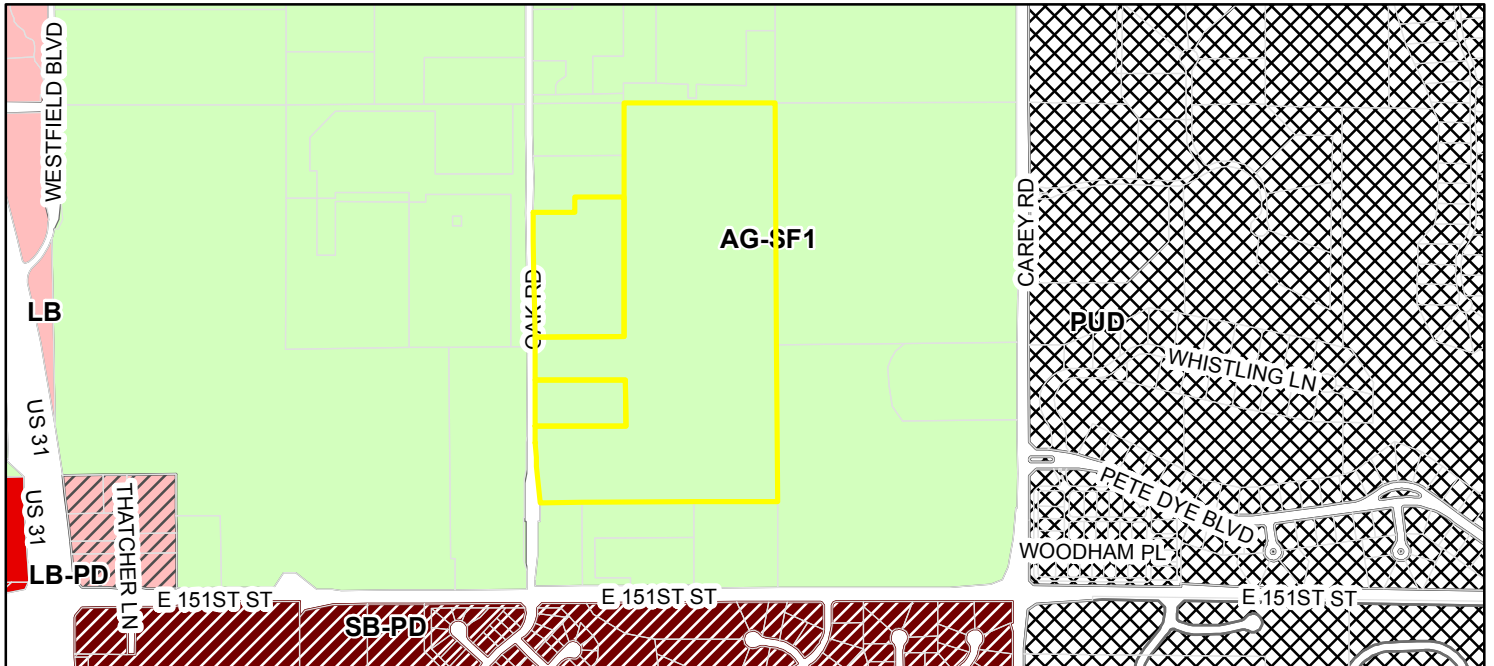


Aerial Location Map

Site



Zoning Map



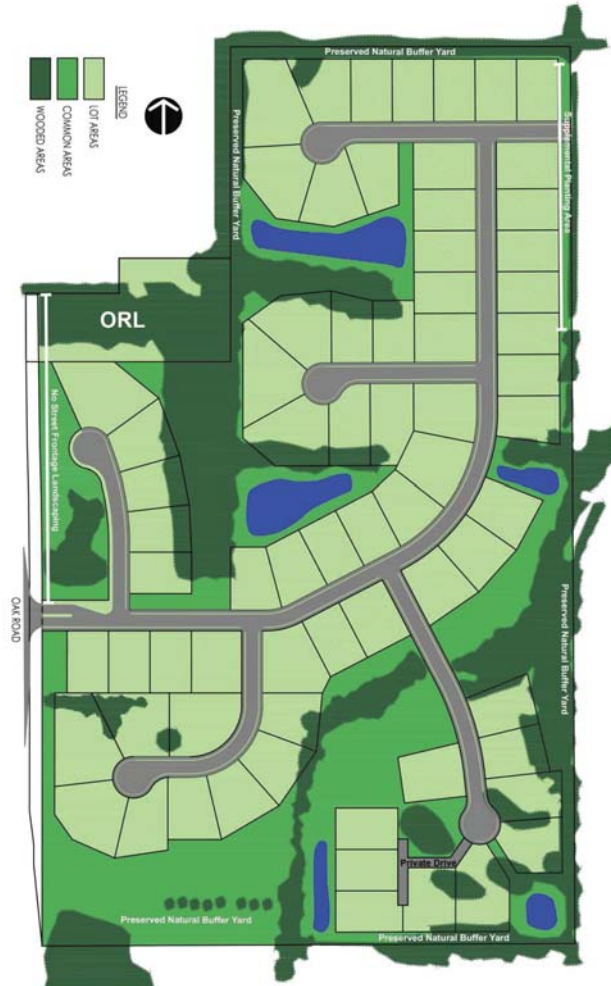
Zoning

AG-SF1 (Agriculture - Single Family - 1)	GB-PD (General Business - Planned Development)	MF-2 (Multiple Family - 2)	SF-3 (Cluster (Single Family - 3 Cluster))
AG-SF1I (Agriculture - Single Family - 1 In-town)	GO (General Office)	OI (Open Industrial)	SF-4 (Single Family - 4)
EI (Enclosed Industrial)	GO-PD (General Office - Planned Development)	OI-PD (Open Industrial - Planned Development)	SF-4 Pre-1994 (Single Family - 4 Pre-1994)
EI-PD (Enclosed Industrial - Planned Development)	LB (Local Business)	PUD (Planned Unit Development)	SF-5 (Single Family - 5)
GB (General Business)	LB-H (Local Business - Historical)	SB-PD (Special Business - Planned Development)	SF-A (Single Family - Attached)
	LB-PD (Local Business - Planned Development)	SF-2 (Single Family - 2)	
	MF-1 (Multiple Family - 1)	SF-3 (Single Family - 3)	

PRIOR CONCEPT PLAN

PUD District

EXHIBIT B - MAPLERIDGE CONCEPT PLAN



REVISED CONCEPT PLAN

Mapleridge PUD District

EXHIBIT B MAPLERIDGE CONCEPT PLAN



ORDINANCE NUMBER 14-50

AN ORDINANCE OF THE CITY OF WESTFIELD AND WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA CONCERNING AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE

This is a Planned Unit Development District Ordinance (to be known as the “**MAPLERIDGE PUD DISTRICT**”) to amend the Unified Development Ordinance of the City of Westfield and Washington Township, Hamilton County, Indiana (the "Unified Development Ordinance"), enacted by the City of Westfield pursuant to its authority under the laws of the State of Indiana, Ind. Code § 36-7-4 et seq., as amended.

WHEREAS, the City of Westfield, Indiana (the "City") and the Township of Washington, both of Hamilton County, Indiana are subject to the Unified Development Ordinance;

WHEREAS, the Westfield-Washington Advisory Plan Commission (the "Commission") considered a petition (**Petition No. 1412-PUD-18**), requesting an amendment to the Unified Development Ordinance and to the Zoning Map with regard to the subject real estate more particularly described in **Exhibit A** attached hereto (the "Real Estate");

WHEREAS, the Commission forwarded **Petition No. 1412-PUD-18** to the Common Council of the City of Westfield, Hamilton County, Indiana (the "Common Council") with a favorable recommendation (7-0) in accordance with Indiana Code § 36-7-4-608, as required by Indiana Code § 36-7-4-1505;

WHEREAS, the Secretary of the Commission certified the action of the Commission to the Common Council on December 16, 2014;

WHEREAS, the Common Council is subject to the provisions of the Indiana Code §36-7-4-1507 and Indiana Code § 36-7-4-1512 concerning any action on this request; and

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Westfield, Hamilton County, Indiana, meeting in regular session, that the Unified Development Ordinance and Zoning Map are hereby amended as follows:

Section 1. Applicability of Ordinance.

- 1.1 The Unified Development Ordinance and Zoning Map are hereby changed to designate the Real Estate as a Planned Unit Development District to be known as the “**Mapleridge PUD District**” (the “District”).
- 1.2 Development of the Real Estate shall be governed by: (i) the provisions of this Ordinance and its exhibits; and (ii) the provisions of the Unified Development Ordinance, as amended and applicable to the Underlying Zoning District or a Planned Unit Development District, except as modified, revised, supplemented or expressly made inapplicable by this Ordinance.
- 1.3 Chapter (“*Chapter*”) and Article (“*Article*”) cross-references of this Ordinance shall hereafter refer to the section as specified and referenced in the Unified Development Ordinance.
- 1.4 All provisions and representations of the Unified Development Ordinance that conflict with the provisions of this Ordinance are hereby made inapplicable to the Real Estate and shall be superseded by the terms of this Ordinance.

Section 2. Definitions. Capitalized terms not otherwise defined in this Ordinance shall have the meanings ascribed to them in the Unified Development Ordinance.

- 2.1 Frontage Road: The road labeled as “Frontage Road” on the Concept Plan.
- 2.2 Loop Street: The Street labeled as “Loop Street” on the Concept Plan.
- 2.3 Oak Road Lot: The Lot labeled “ORL” on the Concept Plan.
- 2.4 Pie Shaped Lot: A Lot designed in a manner where the length of the Rear Lot Line is at least twenty-five percent (25%) longer than the length of the Front Lot Line.
- 2.5 Trail: Any pedestrian or nature trail internal to the District that is used by pedestrians, hikers, or pets. A trail may be paved or maintained in a natural state (e.g., gravel, rock, grass or mulch).
- 2.6 Underlying Zoning District: The Zoning District of the Unified Development Ordinance that shall govern the development of this District and its various subareas, as set forth in Section 4 of this Ordinance.

Section 3. Concept Plan. The Concept Plan, attached hereto as **Exhibit B**, is hereby incorporated in accordance with *Article 10.9(F)(2) Planned Unit Development Districts; PUD District Ordinance Requirements; Concept Plan*.

Section 4. Underlying Zoning District(s). The Underlying Zoning District of this District shall be the SF2: Single Family Low Density District. Except as modified, revised, supplemented or expressly made inapplicable by this Ordinance, the standards of the Underlying Zoning District, as set forth above, shall apply.

Section 5. Permitted Uses. All uses permitted in the Underlying Zoning District shall be permitted.

Section 6. General Regulations. The standards of *Chapter 4: Zoning Districts*, as applicable to the Underlying Zoning District, shall apply to the development of the District, except as otherwise modified below.

- 6.1 Minimum Lot Frontage: 20 feet.
- 6.2 Minimum Front Yard Building Setback Line: 20 feet
- 6.3 Minimum Lot Width for Pie Shaped Lots: 80 feet
- 6.4 Minimum Living Area:
 - A. Single story: 2,500 square feet
 - B. Two story: 2,800 square feet
- 6.5 Oak Road Lot. The standards of the Underlying Zoning District, as modified herein, shall apply to the Oak Road Lot, except as otherwise modified below.
 - A. The Oak Road Lot shall be accessed by a Driveway directly onto Oak Road.
 - B. Minimum Front Yard Building Setback Line: 150 feet
 - C. The landscaping standards (with the exception of the Minimum Lot Landscaping Requirements) of the UDO shall not apply.
 - D. The existing Accessory Building on the Oak Road Lot shall be permitted to remain, to be expanded, or to be replaced, so long as there shall only be one (1) Accessory Building permitted on the Oak Road Lot, unless otherwise permitted by the UDO.

Section 7. Development Standards. The standards of *Chapter 6: Development Standards* shall apply to the development of the District, except as otherwise modified below.

- 7.1 Article 6.3 Architectural Standards: Shall apply. In addition, the following shall also apply:
 - A. Character Exhibit. The Character Exhibit, attached hereto as **Exhibit C**, is hereby incorporated as a compilation of images designed to capture the intended quality of structures to be constructed in the District. Although the exhibits do not necessarily represent the final design or specify a required architectural style or element, they do hereby establish a benchmark for the quality and appearance of structures that are required to

be constructed and that contribute to the District's intent and vision. It is not the intent to limit the architectural styles shown in the Character Exhibit, but to encourage diversity in architectural styles of Dwellings within the District. The Department shall determine whether a structure is consistent with the established benchmark and complies with the standards of this Ordinance. The Department's determination may be appealed to the Plan Commission.

B. Building Materials: In addition to *Article 6.3(C)(3) Building Materials*, the following shall apply:

- i. The roofs of all Dwellings shall be covered with dimensional shingles or decorative wood or slate shake styled shingles.
- ii. Vinyl and aluminum siding shall be prohibited.

C. Garages:

- i. All Dwellings shall have a minimum of a three (3) car attached garage.
- ii. All Dwellings shall have an angled, courtyard or side load garage. A maximum of fifty percent (50%) of a Dwelling's garage doors may be front load.

7.2 Article 6.5 Fence Standards: Shall apply. A wood fence (four to six feet in height) substantially similar in quality and character as the fence depicted to the right shall be installed where generally shown on the Concept Plan and labeled "Fence".



7.3 Article 6.8 Landscaping Standards: Shall apply, except as otherwise modified or enhanced below.

- A. Article 6.8(K): Minimum Lot Landscaping Requirements: shall apply; however, the minimum number of shrubs per Lot shall be enhanced to require fifteen (15) shrubs per Lot.
- B. Article 6.8(M) External Street Frontage Landscaping Requirements shall only apply along Oak Road in the areas labeled on the Concept Plan.
- C. Article 6.8(N) Buffer Yard Requirements shall apply; however, the existing vegetation and Natural Areas, labeled as "Preserved Natural Buffer Yard" on the Concept Plan, shall be preserved and satisfy the required Buffer Yard planting materials in these areas. A tree preservation easement shall be established within the Preserved Natural Buffer Yard. Within this tree preservation easement, no trees with a diameter at breast height ("DBH")

in excess of four inches (4”) or more (the “Protected Trees”) shall be removed unless the tree is damaged, diseased, dead, or is to be removed in order to: (1) comply with safety requirements of any governmental agency; or (2) to accommodate the installation of drainage, utilities, street connections or other infrastructure. If a Protected Tree is damaged or otherwise removed by the developer or builder, except as permitted to be removed as listed above, then the developer or builder shall reestablish the Protected Tree with a tree or trees of combined equal or greater DBH subject to the availability of space for their healthy growth in the tree preservation area.

Section 8. Infrastructure Standards. The District’s infrastructure shall comply with the Unified Development Ordinance and the City’s Construction Standards (see *Chapter 7: Subdivision Regulations*), unless otherwise approved by the Plan Commission or Department of Public Works in consideration of the preservation of the natural topography and environment and in consideration to the unique design intent of the District.

Section 9. Design Standards. The standards of *Chapter 8: Design Standards* shall apply to the development of the District, except as otherwise modified below.

9.1 Article 8.7 Pedestrian Network Standards shall apply, except as otherwise modified or enhanced below:

- A. A sidewalk shall not be required on the west side of the Frontage Road or on the interior of the Loop Street.
- B. Trails shall be prohibited along the north and northwest property lines, as generally shown in **Exhibit D**.
- C. Trails shall be installed as generally depicted on the Concept Plan; however, the final Trail locations may be subject to existing easements (e.g., Mary Wilson Drain) and final engineering. If Trails are prevented from being installed as generally shown, then alternative Trail locations may be approved that still provide access and connectivity to the District’s Open Space.

9.2 Article 8.9 Street and Right-of-Way Standards shall apply; however, subject to review and approval by the Public Works Department and Fire Department, as a part of the District’s Overall Development Plan:

- A. The Frontage Road cul-de-sac shall be permitted to have a maximum length of nine hundred (900) feet.
- B. The Loop Street, as generally shown on the Concept Plan, shall be permitted.
- C. Right-of-way shall be dedicated to provide a future connection point in the

southeast and northeast portions of the Real Estate. The final location of the proposed future connections, shown generally on the Concept Plan, may be subject to final engineering.

D. A paved emergency and pedestrian access shall be provided at the end of the Frontage Road, as generally shown on the Concept Plan.

9.3 Article 8.6 Open Space and Amenity Standards shall apply; however, the Minimum Open Space for the District shall be enhanced to require a minimum of sixteen percent (16%). All Open Space shall be common area and deeded to and maintained by a homeowners' association.

**[REMAINDER PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGES FOLLOW.]**

ALL OF WHICH IS ORDAINED/RESOLVED THIS 12TH DAY OF JANUARY, 2015.

WESTFIELD CITY COUNCIL

Voting For

Voting Against

Abstain

Jim Ake

Jim Ake

Jim Ake

Steven Hoover

Steven Hoover

Steven Hoover

Robert L. Horkay

Robert L. Horkay

Robert L. Horkay

Charles Lehman

Charles Lehman

Charles Lehman

Robert J. Smith

Robert J. Smith

Robert J. Smith

Cindy L. Spoljaric

Cindy L. Spoljaric

Cindy L. Spoljaric

Robert W. Stokes

Robert W. Stokes

Robert W. Stokes

ATTEST:

Cindy Gossard, Clerk Treasurer

I hereby certify that **ORDINANCE 14-50** was delivered to the Mayor of Westfield

on the _____ day of _____, 2015, at _____ m.

Cindy Gossard, Clerk-Treasurer

I hereby APPROVE **ORDINANCE 14-50**

this _____ day of _____, 2015.

J. Andrew Cook, Mayor

I hereby VETO **ORDINANCE 14-50**

this _____ day of _____, 2015.

J. Andrew Cook, Mayor

This document prepared by: Jim Langston, Langston Residential Development, LLC,
1132 S. Rangeline Road, Carmel, Indiana 46032 (317) 846-7017.

SCHEDULE OF EXHIBITS

Exhibit A	Real Estate (Legal Description)
Exhibit B	Concept Plan
Exhibit C	Character Exhibit
Exhibit D	Trail Exhibit

EXHIBIT A
REAL ESTATE

PARCEL I

Part of the West Half of the Northeast Quarter of Section 18, Township 18 North, Range 4 East in Hamilton County, Indiana, described as follows:

Beginning on the West line of the Northeast Quarter of Section 18, Township 18 North, Range 4 East 495.00 feet North 00 degrees 23 minutes 13 seconds West (assuming bearing) from the Southwest corner of said Northeast Quarter; thence North 00 degrees 23 minutes 13 seconds West on said West line 411.11 feet; thence North 89 degrees 42 minutes 36 seconds East 518.57 feet; thence North 00 degrees 23 minutes 13 seconds West parallel with said West line 252.00 feet; thence South 89 degrees 42 minutes 36 seconds East 518.57 feet to the West line of said Northeast Quarter; thence North 00 degrees 23 minutes 13 seconds West on said West line 237.89 feet; thence South 89 degrees 19 minutes 58 seconds East 500.20 feet; thence North 00 degrees 23 minutes 13 seconds West parallel with said West line 1269.40 feet to the North line of said Northeast Quarter; thence North 89 degrees 41 minutes 11 seconds East on said North line 832.87 feet to the East line of the West Half of said Northeast Quarter; thence South 00 degrees 16 minutes 27 seconds East on said East line 2162.38 feet to a point 834.20 feet South of the Northwest corner of the Southeast Quarter of said Northeast Quarter; thence South 89 degrees 42 minutes 36 seconds West 1328.73 feet to the place of beginning, containing 48.4533 acres more or less.

PARCEL II

Commence at a point seventeen and one-half (17 1/2) rods South of the Northwest corner of the Northeast Quarter of Section eighteen (18) Township eighteen (18) North, Range four (4) East and run East thirty (30) rods, South fifty-eight and one-half (58 1/2) rods, West thirty (30) rods, North fifty-eight and one-half (58 1/2) rods to the place of beginning, containing eleven (11) acres more or less.

EXCEPT THEREFROM:

Commencing at the Northwest corner of the Northeast Quarter of Section 18, Township 18 North, Range 4 East; thence South 00 degrees 23 minutes 13 seconds East (assumed bearing) 288.75 feet on and along the West line of said Northeast Quarter to the point of beginning of this description, said point being the Northwest corner of an 11.00 acre, more or less, tract of real estate described in Instrument Number 20003774 in the Records of Hamilton County, Indiana; thence North 89 degrees 41 minutes 11 seconds East 495.00 feet parallel with the North line of said Northeast Quarter to the Northeast corner of said 11.00 acre tract of real estate; thence South 00 degrees 23 minutes 13 seconds East 225.18 feet on and along the East line of said 11.00 acre tract of real estate and parallel with the West line of said Northeast Quarter; thence South 89 degrees 36 minutes 47 seconds West 269.50 feet; thence South 00 degrees 23 minutes 13 seconds East 84.74 feet parallel with the West line of said Northeast Quarter; thence South 89 degrees 41 minutes 11 seconds West 225.50 feet to the West line of said Northeast Quarter; thence North 00 degrees 23 minutes 13 seconds West 310.26 feet on and along the West line of the Northeast Quarter to the point of beginning, containing 3.0 acres more or less.

PARCEL III

Part of the West Half of the Northeast Quarter of Section 18, Township 18 North, Range 4 East in Hamilton County, Indiana, described as follows:

Beginning on the West line of the West Half of the Northeast Quarter of Section 18, Township 18 North, Range 4 East, 906.11 feet North 00 degrees 23 minutes 13 seconds West (assumed bearing) from the Southwest corner of said Northeast Quarter; thence North 89 degrees 42 minutes 36 seconds East 518.57 feet; thence North 00 degrees 23 minutes 13 seconds West parallel with said West line 252.00 feet; thence South 89 degrees 42 minutes 36 seconds West 518.57 feet to the West line of said Northeast Quarter; thence South 00 degrees 23 minutes 13 seconds East on said West line 252.00 feet to the place of beginning, containing 3.00 acres, more or less.

Parcels I, II and III with exceptions as noted total 59.45 acres, more or less.

EXHIBIT B
MAPLERIDGE CONCEPT PLAN

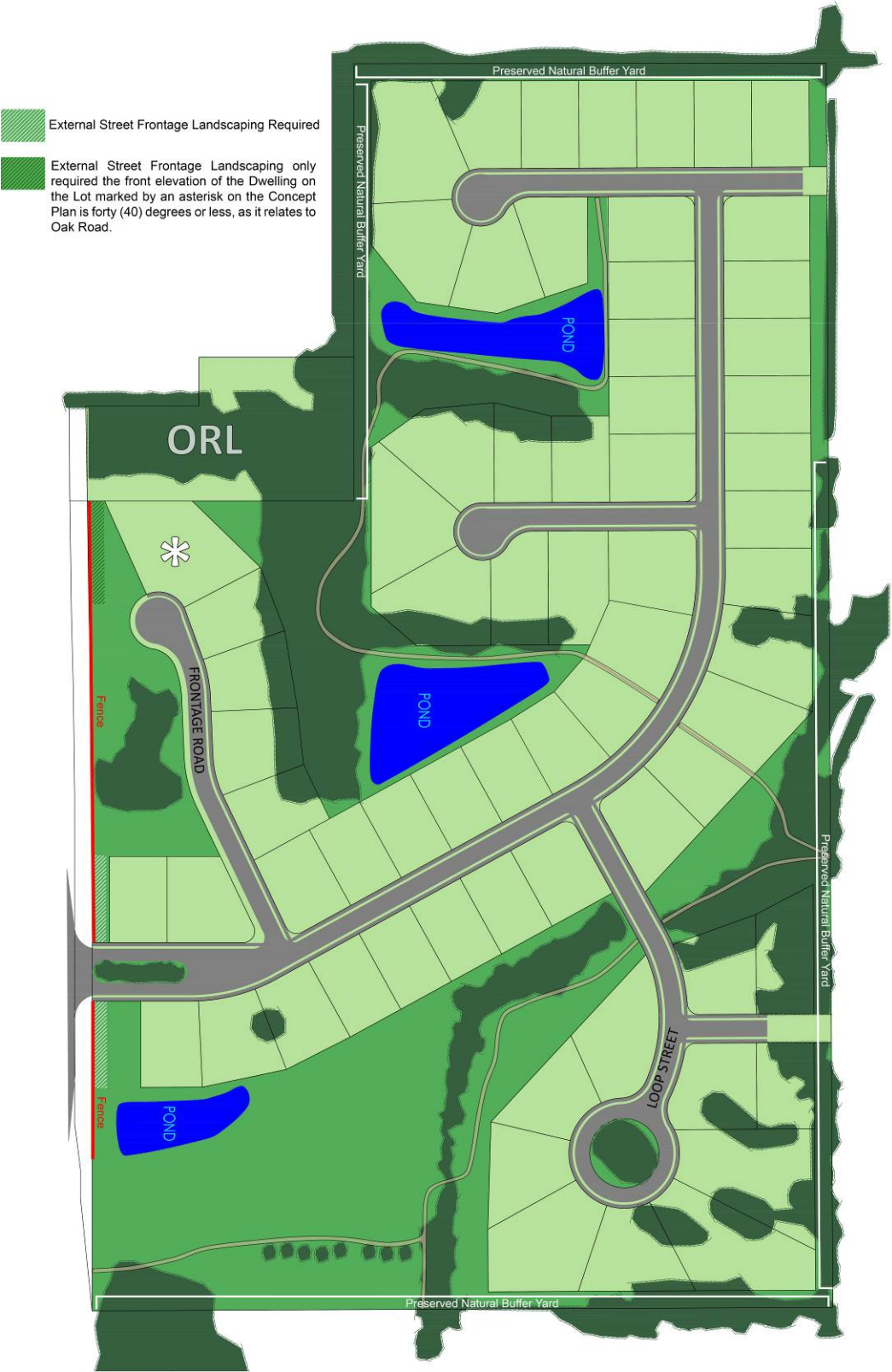


EXHIBIT C
CHARACTER EXHIBIT

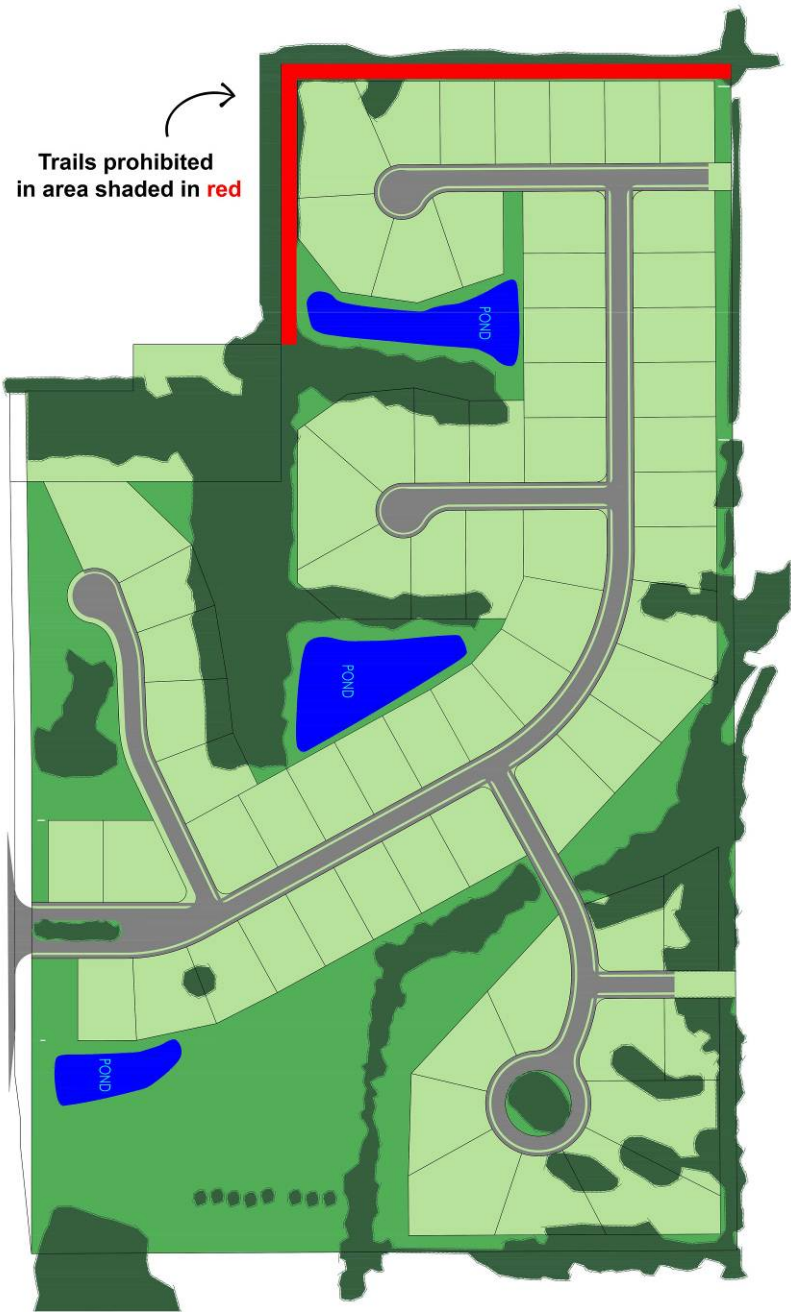
Character Exhibit (All pictures are homes located in Brookside)



EXHIBIT C
CHARACTER EXHIBIT (CONT.)



EXHIBIT D



Neighbor Meeting Summary

Project: Mapleridge
Date: Thursday, November 13, 2014
Location: Brookside Clubhouse

1. In attendance: 14 neighbors, 2 City Councilors (Robert Stokes and Cindy Spoljaric), Kevin Todd with the City of Westfield, representatives from Langston Development, LLC ("Langston"), Steve Hardin and Alyson Oliver of Faegre Baker Daniels.
2. Langston is proposing a single-family neighborhood with development standards and architectural requirements that are substantially similar to those in Brookside. Brookside includes 273 lots on 214.5 acres (1.27 lots per acre). Similarly, Mapleridge includes 71 lots on 59.45 acres (1.19 lots per acre). It is anticipated that the homes will be in the same price range as those in Brookside, which generally average over \$650,000 in value.
3. The primary concerns expressed by the neighbors were:
 - a. Maintaining the area's rural character (a neighbor suggested installing a fence along the Oak Road perimeter that similar in character to the existing fence along Oak Road)
 - b. Requests for more details regarding the quality and character of the rear and sides of homes
 - c. Concern about interior walking trails abutting adjacent properties
 - d. Concern about the entrance being located directly across from a neighbor's house
 - e. General questions about average home and lot sizes
4. On November 24th, Langston sent the following updates to the neighbors:
 - a. Langston agrees to install a fence along the Oak Road perimeter.
 - b. Langston agrees to clarify that all four sides of the homes in Mapleridge will be substantially similar in quality and character as the homes illustrated in the PUD Ordinance.
 - c. Langston agrees that interior trails will not run along the north or northeast property lines.
 - d. Langston agrees to move the neighborhood entrance north along Oak Road. The entrance will be moved as far north as it can be moved without removing any existing trees.
 - e. Follow up on questions raised about the minimum home sizes in Brookside compared to the proposed minimum home sizes in Mapleridge. The following chart was provided:

	Minimum Living Area Permitted		Smallest Home
	Mapleridge	Brookside	in Brookside (as built)
Single Story	2,500 s.f.	2,400 s.f.	2,585 s.f.
Two Story	2,800 s.f.	2,600 s.f.	2,688 s.f.

From: [Jesse Pohlman](#)
To: [Jesse Pohlman](#)
Subject: Mapleridge PUD Ordinance
Date: Wednesday, November 26, 2014 1:14:44 PM

From: Kathleen Robertson [mailto:kathleenarobertson@gmail.com]
Sent: Wednesday, November 26, 2014 1:09 PM
To: Jesse Pohlman
Subject: Re: Mapleridge

Dear Plan Commission Members,

Below are our concerns regarding the plans proposed for Maple Ridge as based on what Langston Development shared at a meeting and through one certified letters.

Issue 1 ENTRANCE

The proposed entrance to Maple Ridge is directly across from our driveway. **THIS IS NOT ACCEPTABLE.** They have a 1,000 ft of road frontage to work with. They can move the entrance 50 yards further north or to where the proposed culisace would be or they can move it a hundred yards to the south, about where Baxter's existing drive is located. If moved further north, the entrance/exit would be across from Acorn Farm, which will not be put into development as it has been donated to Cool Creek Park and will impact no one. As proposed now, we not only have to dodge the increase in north and south traffic but also those pulling out from the development. The water flow, where they want to put the entrance, has a 3 ft. ditch that runs to the legal drain. The proposed entrance would also impact my accessing my mail. Since mail is only delivered on the East side of the road, from 151st to 161st, my mailbox would be in their entrance lane. There is no reason that this entrance needs to be in the proposed area. I should not have to have 400 cars shining their lights into my home on a daily basis.

Issue 2 Proposed homes to the south of Baxter's driveway and east between Oak Road and the legal drain
Homes built here appear to be in FEMA's new flood plain area. No fill or homes should be allowed in this area. We have copies of the flood plains and we will bring them Monday. It might better be used as a retention pond to handle the water overflow from Cool Creek. Homes in that area would flood. Overflow of the creek has become increasingly worse since the work began on Meridian/31 and the destruction of the homes and trees on the west side of 31. There is nothing to slow down the flow of water and additional homes and businesses in that area have added to the problem. Homes proposed to the west portion of the above mentioned area are also in the flood plain.

Issue 3 Traffic

With the addition of Oak Manor (the second phase of Oak Park), now having access off of Oak Road & with the addition of Maple Ridge using only Oak Road, there will be an increase of traffic on Oak Road by at least 600 cars per day. That leads to additional concerns of how that traffic will be handled at Oak Road and 151st. It indicates to me that you will once again want to come in and take more of our property and destroy more of our trees. We highly recommend that a traffic study be done now on Oak Road before any plans are implemented.

Rick and Kathleen Robertson
15340 Oak Road
Carmel, IN 46033

November 30, 2014

Jay and Terri Park
15525 Oak Road
Carmel, IN 46033
since 1978
across from Acorn Farm Antiques
and bordering Mapleridge to our east
ParkDVMs@aol.com
and
Tim Swinney
15577 Oak Rd
Carmel, IN 46033
at N boundary of Mapleridge
t.swinney@sbcglobal.net

To: Plan Commission of Town of Westfield

Re: Mapleridge PUD on Oak Road N of 151st Street

The Parks and the Baxters have been friendly, cooperative neighbors since 1980. Julia and I founded and were officers of WTNT-SE (Washington Township Neighborhood Trustees-SE) in 1989 and both served for many years. Our neighborhood association defeated a poor quality, dense development on the property that now houses the lovely development of Estridge's Oak Park subdivision thanks to the solicitation of quality developers by our WTNT-SE members.

The Parks think Mapleridge (prior R & J Baxter property) is a project that should proceed if changes are made to solve problematic issues. Primary consideration is its effect on Westfield traffic impact at 151st and Oak Road, as well as impact on the surrounding neighbors. We appreciate the balance between green space (aka. undevelopable land) and what seems to be small lot sizes. We realize that not everyone enjoys grooming and caring for landscape and acknowledge the trend of large houses on small lots. Recommendations are as follows to solve the issues we and some of our neighbors see:

Entrance to Mapleridge: Must be moved a substantial distance so that a 450-600 count of car traffic daily does not shine headlights into Rick and Kathy Robertson's living room (15340 Oak Road) across from the original entrance. The modified entrance is still much too close. There are at least two other options to the north. Calculations for traffic are 71 lots X 3 cars/house x 2 passes (coming and going only once per day) = 426 cars leaving or entering Mapleridge at a minimum. This does not include the additional traffic on Oak Road coming from the infill development of Oak Park in the Estridge/Pedcor development that may be traveling south (as the largest majority are) to the intersection of 151st and Oak Road for most direct access to shopping, movies and dining at Village Park Plaza.

Three possible options for entrance change are 1) At the end of the most north-western cul-de-sac of Mapleridge near Oak Road. The street would instead be extended to intersect with Oak Road at approximately South of the Hackberry tree near the road at Lat/Long N 40°00.741' and W 086°07.102' on my GPS. This gives a good line of sight both directions from the peak of the road at the Acorn Farm and Ben Baxter (15443 Oak Rd) driveways. Where the present entrance space was located an additional lot might be placed. Also, the Roberson's mailbox would remain in its present location. 2) The second possibility for an entrance and not taking down trees would be near utility pole 052 565. Just to the

South there is a break in the N-S finger of trees that inhabit the low, untillable area of that field and could intersect with the interior street of Mapleridge. Of course, any ash trees will soon be dead from emerald ash borer and would best be removed during development rather than after as an expense to the new homeowner. Either of those two locations would alleviate the bright light shine upon Robertson's house because of the woods and conifers on Acorn Farm property which will not change in the future. But neither addresses the more important safety concerns of the 151st Street and Oak Road Intersection issue. 3) A third (and best) possible entrance to Mapleridge is explained below in Local Traffic.

Local Traffic at 151st and Oak Road intersection: A traffic study should be done immediately to determine load at peak rush hour in the morning and evening on at least a few days. I have been returning home from work and have seen about ten cars heading south waiting at the two way stop trying to turn onto 151st Street. Now that US 31 is open and the roundabout at 161st and Carey is open, a traffic study should be accurate. Then you have to add the anticipated traffic from Oak Park infill and Mapleridge to anticipate what it will be in the very near future. Traffic coming from Noblesville area use the "back roads" of Carey and Oak to go to the shopping and dining areas at Village Park. The biggest problem is that 151st and Oak is a two way Stop and cannot accommodate more traffic than it presently bears. A four way stop is dangerous, as line of sight is bad going east from US 31 down the hill with limited visual on stopped cars. The same would be true of a traffic light at that intersection, although it would be more visible. On both sides on that area of Oak Road is floodway from Cool Creek and cannot be altered with soil brought in to create a roundabout. A roundabout would be very expensive and would require a great deal of fill dirt (even if that were permitted) and property acquisition to accomplish, and again, the line of sight is limited. The BEST solution for traffic would be if Westfield and/or Langston purchased enough property from the Throgmartin estate (which is for sale) to develop a short public road just at the East boundry of what used to be Don Simond's property to connect Mapleridge PUD with 151st Street. There is a good line of sight West of the Bridlewood entrance/exit on the South side of 151st Street but would not interfere with Bridlewood traffic, being some distance away. The finished short lane would also be used to access the development of the Throgmartin property, so both properties would benefit and that would solve the majority of the problems with the Oak Road and 151st Street intersection traffic volume. The additional advantage is that the Throgmartin property would have access to both Carey Road and 151st Street. This could be a Public-Private solution for both Westfield and property developers, eliminating the impossible solutions to transform the 151st and Oak Road intersection to something less dangerous such as eliminating the road crest to the west, at least for a few years. This is the third, and best entrance option to Mapleridge for traffic safety and Town of Westfield costs. It could even be the most logical area to develop an additional roundabout to serve Bridlewood, Mapleridge, and Throgmartin development in the future.

Adjacent Property Owners Protection from Trespassers:

- 1) **Walking paths prohibited adjacent to existing properties all around.** Trails should be confined to the interior of the development so as not to affect existing adjacent property owners.
- 2) **Privacy fencing, height 6',** should be erected to the interior of the 30' Preserved Natural Buffer Yard at the perimeter of Mapleridge beginning at the NE corner of the development and extending the entire north border to the NW corner, then continuing south to the NE corner of the ORL or beyond per request of that lot owner. The fence should not be installed within the

30' buffer because doing so would destroy existing trees. The tall trees will still be enjoyed by the new homeowners while ensuring that Mapleridge residents respect the privacy of the adjacent existing homeowners such as Joanne Robertson, Dan and Lori Thornberry, Tim Swinney, Jay and Terri Park, as well as Ben and Michelle Baxter. The fence must be maintained by Mapleridge neighborhood association including maintaining a dark brown stain to protect the wood and blend the fence into its more natural surroundings. A dark color allows it to recede from visual notice and will be the least obtrusive for all. We're not asking for an expensive stone or brick wall, just a secure wooden solid panel privacy fence to be maintained and repaired as needed. Nearly every subdivision I've observed has been required to have something similar to appease the neighbors or block traffic noise and view. It needs to extend south to include at least the entire east border of Ben and Michelle Baxter's property in order to keep trespassers from just going around it and exploring. Most of us realize the Baxters will have trespassers attracted to their pond as well as the ponds owned by neighbors to the north. It seems to be an undeniable fact of human nature that this is predictable but can be deterred. It is not that we are un-neighborly, as most of us neighbors have asked and been given permission to have access to each other's properties because we all respect, do no damage and cause no harm.

Floodway map from FEMA FIRM (Flood Insurance Rate Map): <http://msc.fema.gov/portal>
In the search window, enter the current Baxter address of 15251 Oak Road, Carmel, IN 46033. Select VIEW, and the data retrieving begins. Zoom into the large blue area at the SW section of the map to find the intersection of Oak Road and 151st Street. A second or third zoom might be needed and then you can select pan and move around. I found no way to print this map from the web site as it caused an error each of many times I tried. The point is that the homes located to the south of the current Baxter home drive at 15251 Oak Road of the Mapleridge PUD which are at the SW portion of the property may easily be in the Floodway where NO additional soil may be moved in to change the floodway area. We know that retention ponds are planned to alleviate as much run off water as possible, but realize that it is impossible not to have further impact on Cool Creek flooding. It is impossible to keep every ounce of rain that falls confined to Mapleridge.

Oak Road Adjacent lots It would be preferred by some of the neighbors and for better visual impact from Oak Road if the lots adjacent to Oak Road required the homes all face Oak road. The garage access could still be from the Mapleridge interior roads and since the quality of all the sides of the homes are equal, it should not be objectionable to Mapleridge residents either. Their addresses would be that of the interior street. This would apply to a lot that might exist instead of the present entrance plus the three lots south of the present entrance. The "entrance lot" from Oak road would replace the lot lost at the "Throgmartin Lane" alternate entrance off of 151st Street. In Indianapolis there are a number of lots that have no "back or side" yards but are visible from at least three street sides.

The other items of the November 24, 2014 Mapleridge Update sent by e-mail a few days ago that are acceptable are items 1, 2, and 5.

We appreciate your careful consideration of this project,

Terri Park, DVM Jay Park, DVM Tim Swinney

From: [John Boyer](#)
To: [APC](#)
Cc: "Mic Mead"; conifersocietytp@aol.com
Subject: Public Hearing at Planning Commission on Dec 1st regarding Mapleridge PUD
Date: Sunday, November 30, 2014 9:29:04 PM

November 30, 2014

Hello Westfield Planning Commissioners,

As I am unable to attend the Monday evening APC meeting on December 1st, 2014 regarding the proposed Mapleridge PUD north of 151st on Oak Road, I have asked Mr. Mic Mead, a Director of Washington Township Neighborhood Trustees-SE, to speak on behalf of our neighborhood association known as WTNT. (Mic lives directly across from the proposed Mapridge PUD at Acorn Farms with his wife, Jill.)

After reviewing the plans for Mapleridge, we believe that the development has many merits, and feel that with a few additional changes, it will definitely be a showplace community in our neighborhood.

In a meeting with the developer, Jim Langston, the adjacent neighbors addressed a number of issues, many of which have agreed to be reconsidered. However a few remain unresolved, which I wanted to summarize briefly.

1. The single exit from Mapleridge across Oak Road from the Robertson's residence will both create an annoyance to an existing neighbor, and also cause a traffic hazard. With multiple cars from the 71 residences both shining headlights on their residence and causing backlogs with the heavy traffic on Oak Road, a single entrance/exit in its current location is objectionable. Although the location of this single entrance is already under discussion with the developer, a suitable location to Robertson's hasn't been agreed to yet.

The additional residents in the expansion of the Paul Estridge Oak Manor development between 151st and 161st north on Oak Road from Mapleridge will also be adding to the already heavy traffic on Oak Road. The heavy traffic leaving this single entrance/exit could be alleviated by developing a second entrance/exit.

2. Current minimum Lot size of 1/3 acre.

We would suggest that the developer reduce the number of lots slightly from the current 71 as necessary to allow raising the minimum lot size to ½ acre. This would allow the lots to be more uniform in size and be more consistent with the adjacent Oak Manor expansion to the north.

Again, we feel that with a few modifications, Mapleridge will become a welcome addition to the Oak Road neighborhood.

John Boyer
President, WTNT

Alyson E. Oliver
Land Use Consultant
alyson.oliver@FaegreBD.com
Direct +1 317 569 4836

Faegre Baker Daniels LLP
600 East 96th Street Suite 600
Indianapolis Indiana 46240-3789
Phone +1 317 569 9600
Fax +1 317 569 4800

December 11, 2014

Westfield Advisory Plan Commission
130 Penn Street
Westfield, IN 46074

Re: Updates to the Mapleridge PUD Ordinance

Dear Plan Commission Member:

On behalf of our client, Langston Residential Development, LLC ("Langston"), we would like to provide the following update.

Since the Plan Commission meeting on December 1, 2014, Langston has made updates to the Mapleridge PUD Ordinance to address concerns raised by neighbors and the Westfield planning staff. A redlined version of the PUD Ordinance has been provided to show updates since the last meeting. The following is a summary of the changes that have been made:

1. Neighbor Requests:
 - a. Oak Road Fence. At the request of the neighbors, Langston has agreed to install a fence along the Oak Road perimeter. This has been incorporated into the PUD Ordinance (including a character image of the proposed fence) and is shown on the Concept Plan.
 - b. Four-Sided Architecture. At the request of the neighbors, additional character images of the sides and rears of homes in Brookside have been added to the Character Exhibit (Exhibit C of the PUD Ordinance).
 - c. Interior Paths and Trails. Langston has agreed that trails will not run along the north and northwest property lines. This agreement has been incorporated into the PUD Ordinance.
 - d. Neighborhood Entrance. To address concerns about the location of the neighborhood entrance, Langston has agreed to move the proposed entrance. This is now depicted on the Concept Plan that is included as an exhibit to the PUD Ordinance.
2. The remaining changes, which are redlined in the PUD Ordinance, were made at the request of the planning staff.

Sincerely,

Alyson E. Oliver
Land Use Consultant

**WESTFIELD-WASHINGTON TOWNSHIP ADVISORY
PLAN COMMISSION CERTIFICATION**

The Westfield-Washington Township Advisory Plan Commission held a public hearing on Monday, December 1, 2014, to consider an amendment to the Zoning Map and Westfield-Washington Township Unified Development Ordinance. Notice of the public hearing was advertised and noticed in accordance with Indiana law and the Advisory Plan Commission's Rules of Procedure. Notice was shown to have been published in a newspaper of general circulation in Hamilton County, Indiana. The petition is as follows:

Docket No.	1412-PUD-18
Ordinance No.	14-50
Petitioner	Langston Development, LLC
Description	Langston Residential Development, LLC requests a change in zoning of approximately 59.45 acres+/-, generally located on the east side of Oak Road, north of 151 st Street, from the AG-SF1: Agriculture / Single-Family Rural District to the Mapleridge Planned Unit Development (PUD) District.

On December 15, 2014, a motion was made and passed to send a unanimous favorable recommendation to the City Council regarding this petition (Vote: 7 in favor, 0 opposed).

The above-mentioned proposal and the Advisory Plan Commission's recommendation thereof are hereby certified.



Matthew S. Skelton, Secretary

December 16, 2014

Date

ORDINANCE 14-34

AN ORDINANCE OF THE CITY OF WESTFIELD CONCERNING AMENDMENT TO TEXT OF THE SPRINGMILL TRAILS PLANNED UNIT DEVELOPMENT BEING THAT OF ORDINANCE 11-19 AND TITLE 16 - LAND USE CONTROLS

WHEREAS, The City of Westfield, Indiana and the Township of Washington, both of Hamilton County, Indiana are subject to the Westfield-Washington Township Unified Development Ordinance (the “UDO”); and;

WHEREAS, the Westfield-Washington Advisory Plan Commission (the “Commission”) considered a petition (Docket 1409-PUD-14), filed with the Commission requesting an amendment to Ordinance 11-19, enacted by the Council on September 12, 2011 (the “Springmill Trails PUD Ordinance”)

WHEREAS, on December 15, 2014 the Commission took action to forward Docket Number 1408-PUD-12 to the Westfield City Council with a **favorable recommendation (7-0)** in accordance with Ind. Code 36-7-4-608, as required by Ind. Code 36-7-4-1505;

WHEREAS, on January __, 2015 the Secretary of the Commission certified the action of the Commission to the City Council; and,

WHEREAS, the Westfield City Council is subject to the provisions of the Indiana Code IC 36-7-4-1507 and 36-7-4-1512 concerning any action on this request.

NOW THEREFORE BE IT ORDAINED BY THE WESTFIELD CITY COUNCIL THAT THE SPRINGMILL TRAILS PUD ORDINANCE AND UNIFIED DEVELOPMENT ORDINANCE BE AMENDED AS FOLLOWS:

Section 1. Applicability of Ordinance

- 1.1 The Springmill Trails PUD Ordinance is hereby amended in accordance with the standards established in the attached **Exhibit B**.
- 1.2 This ordinance shall hereafter be referred to as The Springmill Trails PUD Amendment Ordinance (this “Ordinance”).
- 1.3 This Ordinance applies to the subject real estate, generally described in **Exhibit A**, attached hereto and incorporated herein (the “Real Estate”).
- 1.4 All other provisions of The Springmill Trails PUD shall remain in effect with the adoption of this Ordinance.
- 1.5 All provisions and representations of the UDO or The Springmill Trails PUD as amended, that conflict with the provisions of this Ordinance are hereby rescinded as applied to the Real Estate and shall be superseded by the terms of this Ordinance.

ALL OF WHICH IS HEREBY ADOPTED BY THE CITY COUNCIL OF WESTFIELD,
HAMILTON COUNTY, INDIANA THIS _____ DAY OF _____, 201_.

WESTFIELD CITY COUNCIL
HAMILTON COUNTY, INDIANA

Voting For

Voting Against

Abstain

Jim Ake

Jim Ake

Jim Ake

Chuck Lehman

Chuck Lehman

Chuck Lehman

Steven Hoover

Steven Hoover

Steven Hoover

Robert L. Horkay

Robert L. Horkay

Robert L. Horkay

Robert J. Smith

Robert J. Smith

Robert J. Smith

Cindy L. Spoljaric

Cindy L. Spoljaric

Cindy L. Spoljaric

Robert W. Stokes

Robert W. Stokes

Robert W. Stokes

ATTEST:

Cindy Gossard, Clerk-Treasurer

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law: Tammy K. Haney

I hereby certify that ORDINANCE No. 14-34 was delivered to the Mayor of Westfield

on the _____ day of _____, 201_, at _____.

Cindy J. Gossard, Clerk-Treasurer

I hereby APPROVE ORDINANCE No. 14-34

This _____ day of _____, 201_.

J. Andrew Cook, Mayor

I hereby VETO ORDINANCE No. 14-34

This _____ day of _____, 201_.

J. Andrew Cook, Mayor

ATTEST:

Cindy J. Gossard, Clerk-Treasurer

Prepared by: Tammy K. Haney, Keller Macaluso LLC, 760 3rd Avenue SW, Suite 210,
Carmel, IN 46032

EXHIBIT A
Legal Description

Lots 24, 25, 56, 61, 76, 80 and 82 in Waters Edge at Springmill Trails Section Two as per plat thereafter recorded on November 12, 2013 as Instrument No. 2013068442.

EXHIBIT B

I. Minimum Setback Lines.

- a) Section 2.3.D.1(d) of the Springmill Trails PUD shall be deleted and replaced with the following:
 - i. 60' front load lots – Twenty (20) feet; except nineteen (19) feet front yard setbacks are permitted on the following Lots on the Real Estate:
 - A. Lot Numbers 24 and 25; provided further that homes and driveways constructed on Lots 24 and 25 will not face nor be accessed by Starview Drive.
- b) Section 2.3.D.2(d) of the Springmill Trails PUD shall be deleted and replaced with the following:
 - i. 60' front load lots – Six (6) feet; except five (5) feet side yard setbacks are permitted on the following Lots on the Real Estate:
 - A. Lot Numbers 56, 61, 76, 80 and 82; provided further that the minimum building separation between dwellings on these lots and dwellings on adjacent Lots shall be twelve (12) feet.



Westfield City Council Report

Ordinance Number:	14-34
APC Petition Number:	1409-PUD-14
Petitioner:	M/I Homes of Indiana LP
Requested Action:	An amendment to the Springmill Trails PUD Ordinance, affecting specified Lots within the Water's Edge Subdivision
Current Zoning:	Springmill Trails PUD District
Current Land Use:	Residential
Exhibits:	1. Staff Report 2. Location Map 3. PUD District Amendment 4. Map of Affected Lots 5. Character Exhibits 6. Neighbor's Meeting Summary 7. Packet of Public Comment 8. APC Certification
Prepared by:	Jeffrey M. Lauer, Associate Planner

PETITION HISTORY

This petition was introduced at the August 11, 2014, City Council (the "Council") meeting. The petition received a public hearing at the August 18, 2014 and December 15, 2014, Advisory Plan Commission (the "APC") meetings. The APC forwarded this petition with a unanimous favorable recommendation at its December 15, 2014, meeting. This petition is eligible for adoption consideration at the January 12, 2015, Council meeting.

PROCEDURAL

Public Hearing: Changes in zoning are required to be considered at a public hearing by the APC. The public hearing for this petition was held on August 18, 2014 and December 15, 2014, at the APC meeting. Notice of the public hearing was provided in accordance with Indiana law and the APC's Rules of Procedure.

Neighbors' Meeting: The Petitioner hosted two (2) meetings for adjoining property owners on August 27, 2014 and October 15, 2014, as required by Article 10.9(C)(1)(f) of the UDO for proposed Planned Unit

Development (“PUD”) Districts. The Petitioner has provided a summary of those meetings, which is included at **Exhibit 6**.

Statutory Considerations:

Indiana Code 36-7-4-603 states that in the consideration of zoning ordinance amendments and zone map changes that reasonable regard shall be paid to:

1. The Comprehensive Plan.
2. Current conditions and the character of current structures and uses.
3. The most desirable use for which the land is adapted.
4. The conservation of property values throughout the jurisdiction.
5. Responsible growth and development.

PROJECT OVERVIEW

Project Location: The subject property (the “Property”) is approximately thirty-six (36) acres located north of State Road 32, on the west side of Casey Road (see **Exhibit 2**). The Property is currently zoned Springmill Trails PUD District.

Project Description: The Petitioner is requesting an amendment to the Springmill Trails PUD District Ordinance that would modify the existing front and side yard building setback lines.

Default Standards: The underlying zoning district of Residential District 2 is **SF2: Single-Family Low Density**. The proposed PUD District Amendment (the “PUD Amendment”) (see **Exhibit 4**), otherwise defaults to the Springmill Trails PUD District Ordinance and Westfield-Washington Township Zoning Ordinance.

Permitted Uses: The PUD Amendment does not modify permitted uses.

Development Standards: As proposed, the PUD Ordinance establishes enhanced or alternative development standards from the Underlying Zoning District (Chapter 6 of the UDO). These modifications are intended to accommodate the unique environmental characteristics of the Property and the Petitioner’s vision for the development. The development standards of note are briefly highlighted below:

1. Side Yard Setback: The PUD Text Amendment modifies the six (6) foot side yard setback required by the Springmill Trails PUD to five (5) feet for those Lots identified in red at **Exhibit 4**.
2. Front Yard Setback: The PUD Text Amendment modifies the twenty (20) foot front yard setback required by the Springmill Trails PUD to nineteen (19) feet for those Lots identified in blue at **Exhibit 4**.

Comprehensive Plan: The Future Land Use Plan in the Westfield-Washington Township Comprehensive Plan (the “Comprehensive Plan”) identifies the Property as “Suburban Residential”. The Comprehensive Plan is not law; rather, it is intended to serve as a guide in making land use decisions; however, below is a general summary of the goals and objectives of the Comprehensive Plan for this Property:

The development policies for “Suburban Residential” include: (i) promote the protection of the existing suburban character of the area; (ii) ensure that new development adjacent to existing suburban is properly buffered; (iii) ensure development occurs in a way that is contiguous with existing development; (iv) design developments such that back yards are not adjacent to collector or arterial streets unless uniform attractive screening is provided; (v) prevent monotony of design and color that applies to the collective impact of an entire development; (vi) emphasize

connectivity between subdivisions, and avoid creating isolated islands of development; (vii) encourage quality and useable open space; (viii) encourage development of bicycle and pedestrian facilities in new development to improve connectivity; and (ix) land that is characterized by steep slopes or other natural limitations should be left natural or developed at rural, rather than suburban densities.

The development policies for “residential design standards” include: (i) encourage neighborhoods that do not have the appearance of “production” housing; (ii) evaluate new residential development on the basis of overall density and the relationship that density to effective and usable open space preservation, rather than on lot sizes; and (iii) encourage variety and diversity in housing while maintaining a distinct style or character and avoiding the appearance of “cookie cutter” subdivisions.

The development policies for “open space and recreation” include: (i) design open space to form an interconnected network, with provisions or linkages to existing or potential open space; (ii) maintain and preserve stream corridors, woodlands, hedge rows, or other valuable natural and historic resources; (iii) provide parks and recreational facilities in new development to accommodate the needs of the community as it grows; and (iv) recognize that in addition to the amount of open space, that the location and configuration of open space is of importance and should not be an afterthought based on a determination of unusable land.

PUBLIC HEARING COMMENTS

Public comment, attached hereto as **Exhibit 7**, was submitted in writing prior to the August 18, 2014 public hearing. The public comments presented at the public hearing, both on August 18, 2014 and December 15, 2014, are summarized in the APC’s minutes of the August 18, 2014 ([linked here](#)) and December 15, 2014, meeting ([linked here](#)). No public comment was submitted in writing prior to the December 15, 2014 meeting. The Petitioner’s summary of their revisions in response to those comments received from the Department, the Plan Commission, and neighbors is included in the Petitioner’s Update, attached hereto as **Exhibit 6**.

RECOMMENDATIONS / ACTIONS

APC Recommendation

At its December 15, 2014, meeting, the APC forwarded a unanimous favorable recommendation of this petition to the Council (Vote of: 7 in favor, 0 opposed) (see **Exhibit 8**).

City Council

Introduction: August 11, 2014

Eligible for Adoption: January 12, 2015

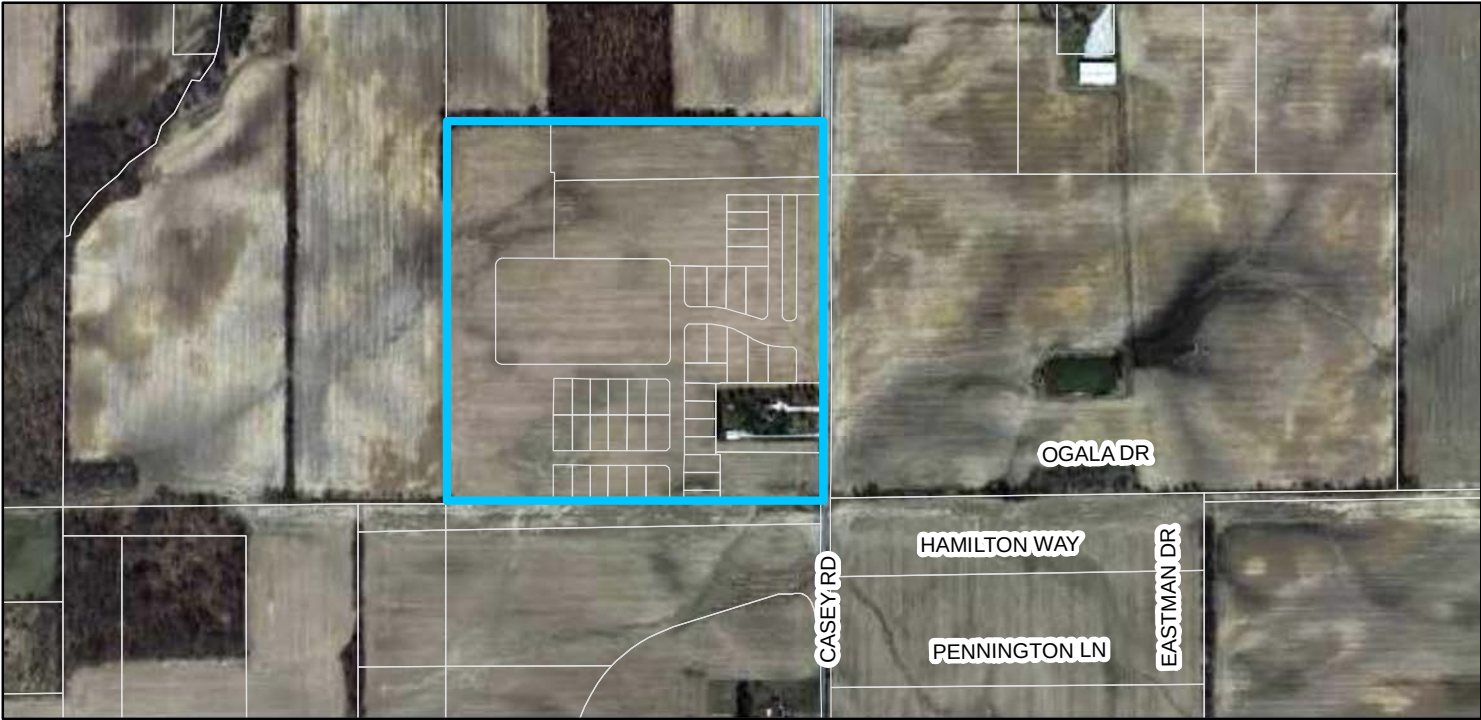
Submitted by: Jeffrey M. Lauer, Associate Planner
Economic and Community Development Department

Aerial Map
1409-PUD-14
Springmill Trails PUD Amendment

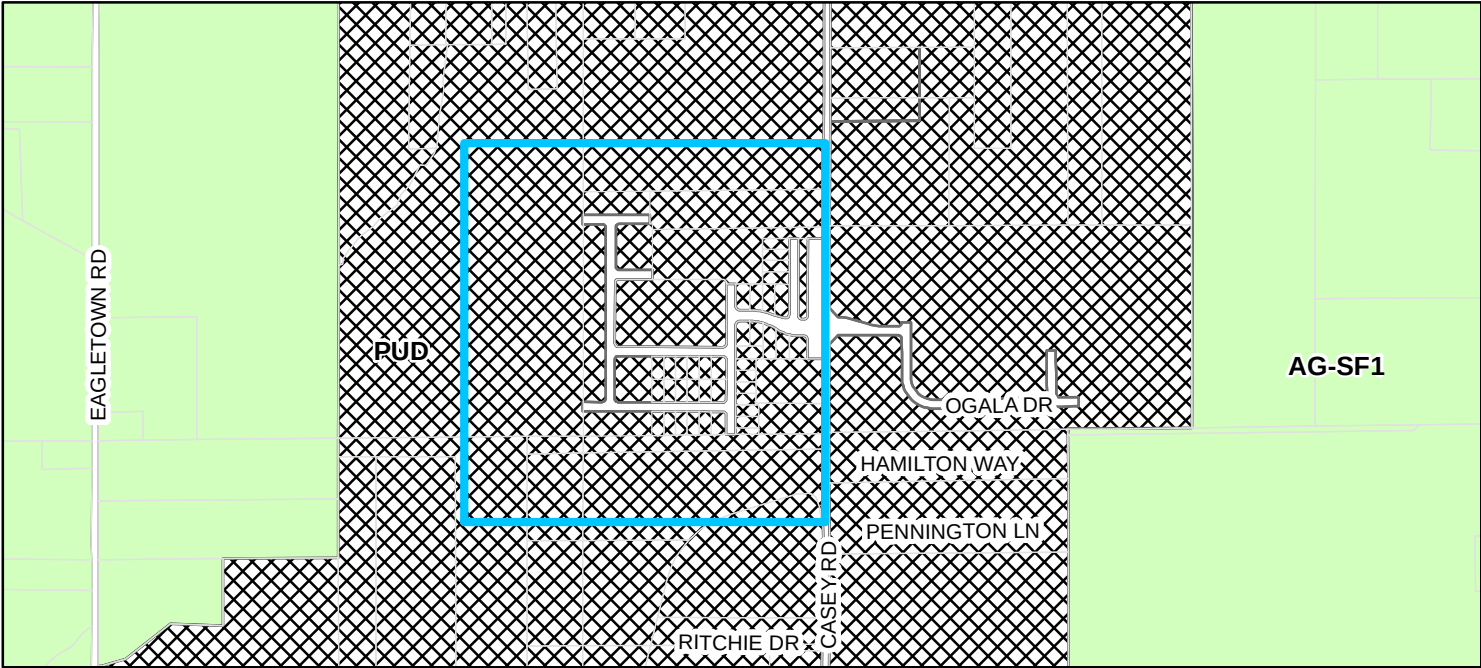


Aerial Location Map

 Site



Zoning Map



Zoning

-  AG-SF1 (Agriculture - Single Family - 1)
-  PUD (Planned Unite Development)

ORDINANCE 14-34

AN ORDINANCE OF THE CITY OF WESTFIELD CONCERNING AMENDMENT TO TEXT OF THE SPRINGMILL TRAILS PLANNED UNIT DEVELOPMENT BEING THAT OF ORDINANCE 11-19 AND TITLE 16 - LAND USE CONTROLS

WHEREAS, The City of Westfield, Indiana and the Township of Washington, both of Hamilton County, Indiana are subject to the Westfield-Washington Township Unified Development Ordinance (the “UDO”); and;

WHEREAS, the Westfield-Washington Advisory Plan Commission (the “Commission”) considered a petition (Docket 1409-PUD-14), filed with the Commission requesting an amendment to Ordinance 11-19, enacted by the Council on September 12, 2011 (the “Springmill Trails PUD Ordinance”)

WHEREAS, on December 15, 2014 the Commission took action to forward Docket Number 1408-PUD-12 to the Westfield City Council with a **favorable recommendation (8-0)** in accordance with Ind. Code 36-7-4-608, as required by Ind. Code 36-7-4-1505;

WHEREAS, on January __, 2015 the Secretary of the Commission certified the action of the Commission to the City Council; and,

WHEREAS, the Westfield City Council is subject to the provisions of the Indiana Code IC 36-7-4-1507 and 36-7-4-1512 concerning any action on this request.

NOW THEREFORE BE IT ORDAINED BY THE WESTFIELD CITY COUNCIL THAT THE SPRINGMILL TRAILS PUD ORDINANCE AND UNIFIED DEVELOPMENT ORDINANCE BE AMENDED AS FOLLOWS:

Section 1. Applicability of Ordinance

- 1.1 The Springmill Trails PUD Ordinance is hereby amended in accordance with the standards established in the attached **Exhibit B**.
- 1.2 This ordinance shall hereafter be referred to as The Springmill Trails PUD Amendment Ordinance (this “Ordinance”).
- 1.3 This Ordinance applies to the subject real estate, generally described in **Exhibit A**, attached hereto and incorporated herein (the “Real Estate”).
- 1.4 All other provisions of The Springmill Trails PUD shall remain in effect with the adoption of this Ordinance.
- 1.5 All provisions and representations of the UDO or The Springmill Trails PUD as amended, that conflict with the provisions of this Ordinance are hereby rescinded as applied to the Real Estate and shall be superseded by the terms of this Ordinance.

ALL OF WHICH IS HEREBY ADOPTED BY THE CITY COUNCIL OF WESTFIELD,
HAMILTON COUNTY, INDIANA THIS _____ DAY OF _____, 201_.

WESTFIELD CITY COUNCIL
HAMILTON COUNTY, INDIANA

Voting For

Voting Against

Abstain

Jim Ake

Jim Ake

Jim Ake

Chuck Lehman

Chuck Lehman

Chuck Lehman

Steven Hoover

Steven Hoover

Steven Hoover

Robert L. Horkay

Robert L. Horkay

Robert L. Horkay

Robert J. Smith

Robert J. Smith

Robert J. Smith

Cindy L. Spoljaric

Cindy L. Spoljaric

Cindy L. Spoljaric

Robert W. Stokes

Robert W. Stokes

Robert W. Stokes

ATTEST:

Cindy Gossard, Clerk-Treasurer

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law: Tammy K. Haney

I hereby certify that ORDINANCE No. 14-34 was delivered to the Mayor of Westfield

on the _____ day of _____, 201_, at _____.

Cindy J. Gossard, Clerk-Treasurer

I hereby APPROVE ORDINANCE No. 14-34

This _____ day of _____, 201_.

J. Andrew Cook, Mayor

I hereby VETO ORDINANCE No. 14-34

This _____ day of _____, 201_.

J. Andrew Cook, Mayor

ATTEST:

Cindy J. Gossard, Clerk-Treasurer

Prepared by: Tammy K. Haney, Keller Macaluso LLC, 760 3rd Avenue SW, Suite 210,
Carmel, IN 46032

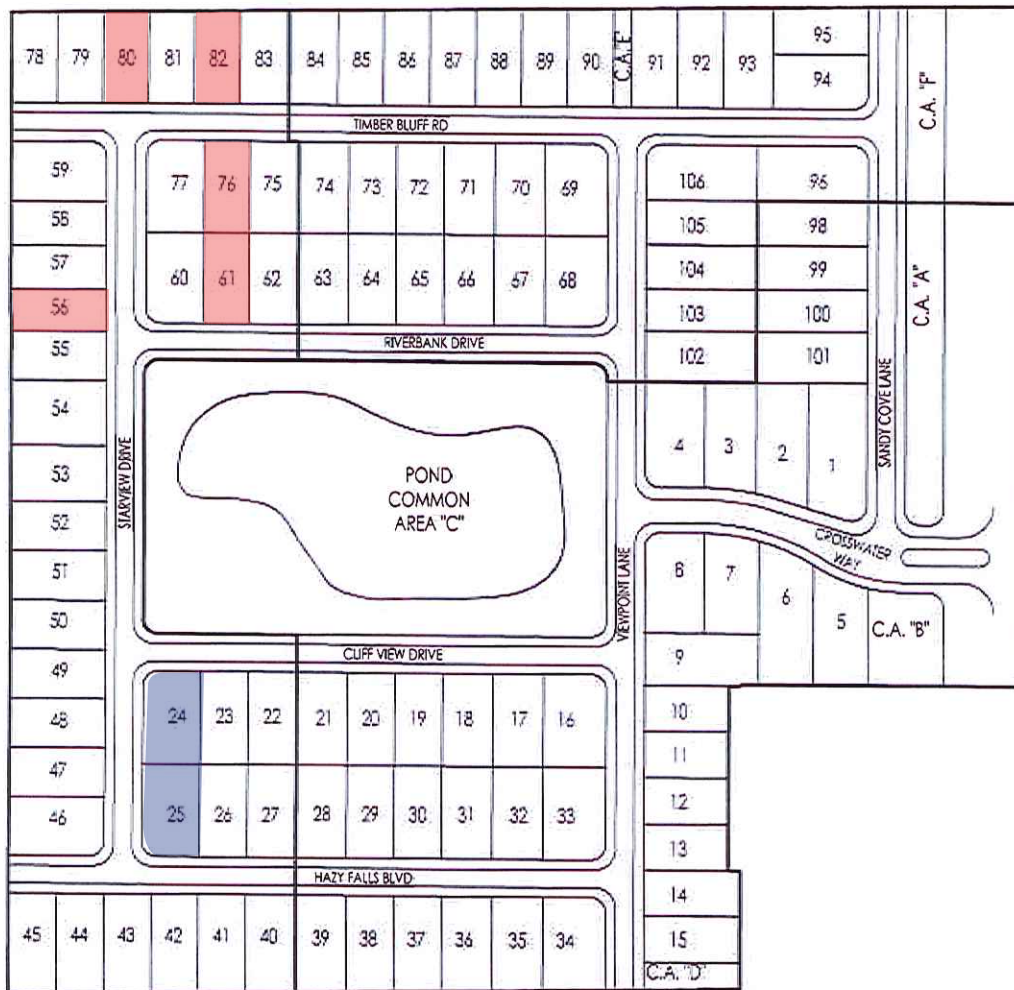
EXHIBIT A
Legal Description

Lots 24, 25, 56, 61, 76, 80 and 82 in Waters Edge at Springmill Trails Section Two as per plat thereafter recorded on November 12, 2013 as Instrument No. 2013068442.

EXHIBIT B

I. Minimum Setback Lines.

- a) Section 2.3.D.1(d) of the Springmill Trails PUD shall be deleted and replaced with the following:
 - i. 60' front load lots – Twenty (20) feet; except nineteen (19) feet front yard setbacks are permitted on the following Lots on the Real Estate:
 - A. Lot Numbers 24 and 25; provided further that homes and driveways constructed on Lots 24 and 25 will not face nor be accessed by Starview Drive.
- b) Section 2.3.D.2(d) of the Springmill Trails PUD shall be deleted and replaced with the following:
 - i. 60' front load lots – Six (6) feet; except five (5) feet side yard setbacks are permitted on the following Lots on the Real Estate:
 - A. Lot Numbers 56, 61, 76, 80 and 82; provided further that the minimum building separation between dwellings on these lots and dwellings on adjacent Lots shall be twelve (12) feet.



-  Side Yard Modification
-  Front Yard Modification



WATERS EDGE

1"=150'

The Ainsley



Elevation B shown with optional brick and stone.



Elevation C



Elevation D shown with opt. brick & stone.



Elevation E

The Nicholas



Elevation B



Elevation C



Elevation D shown with optional brick and stone.



Elevation E shown with optional brick and stone.



Elevation F shown with optional stone.



Elevation G

The Clayton



Elevation E shown w/Opt Stone



Elevation B



Elevation C shown w/Opt Brick Returns



Elevation F

Waters Edge at Springmill Trails

PUD Text Amendment Request – Side Yard and Building Set Back

Timeline of Events

By M/I Homes of Indiana, LLP

Docket No. 1409-PUD-14

- July 3, 2014 – M/I Homes of Indiana, LP filed a PUD Text Amendment requesting the side yard setback requirement be reduced from 6' to 5' in Sections 1, 2 and future 3. This would affect approximately 30 lots.
- August 18, 2014 - M/I appeared before the APC. Several homeowners from Waters Edge remonstrated against the Petition stating they did not want homes in Waters Edge to be closer together. M/I agreed to host a private meeting with the homeowners to discuss their concerns in further detail.
- August 27, 2014 – M/I Homes hosted an informational meeting for Waters Edge homeowners at the model home. 20 homeowners and Kevin Todd, Senior Planner, City of Westfield were present. Jerrod Klein, Vice President, and Mark Conner, Vice President of Land Acquisition, both with M/I Home, led the discussion regarding M/I's request to reduce the side yard setback requirement from 6' to 5'. Jerrod advised that since the real estate market has improved over the past 12 months, the market demand at Waters Edge has changed from 40' wide to 50' wide homes. The homeowners present did not want to see homes closer together in Waters Edge and did not support the petition.

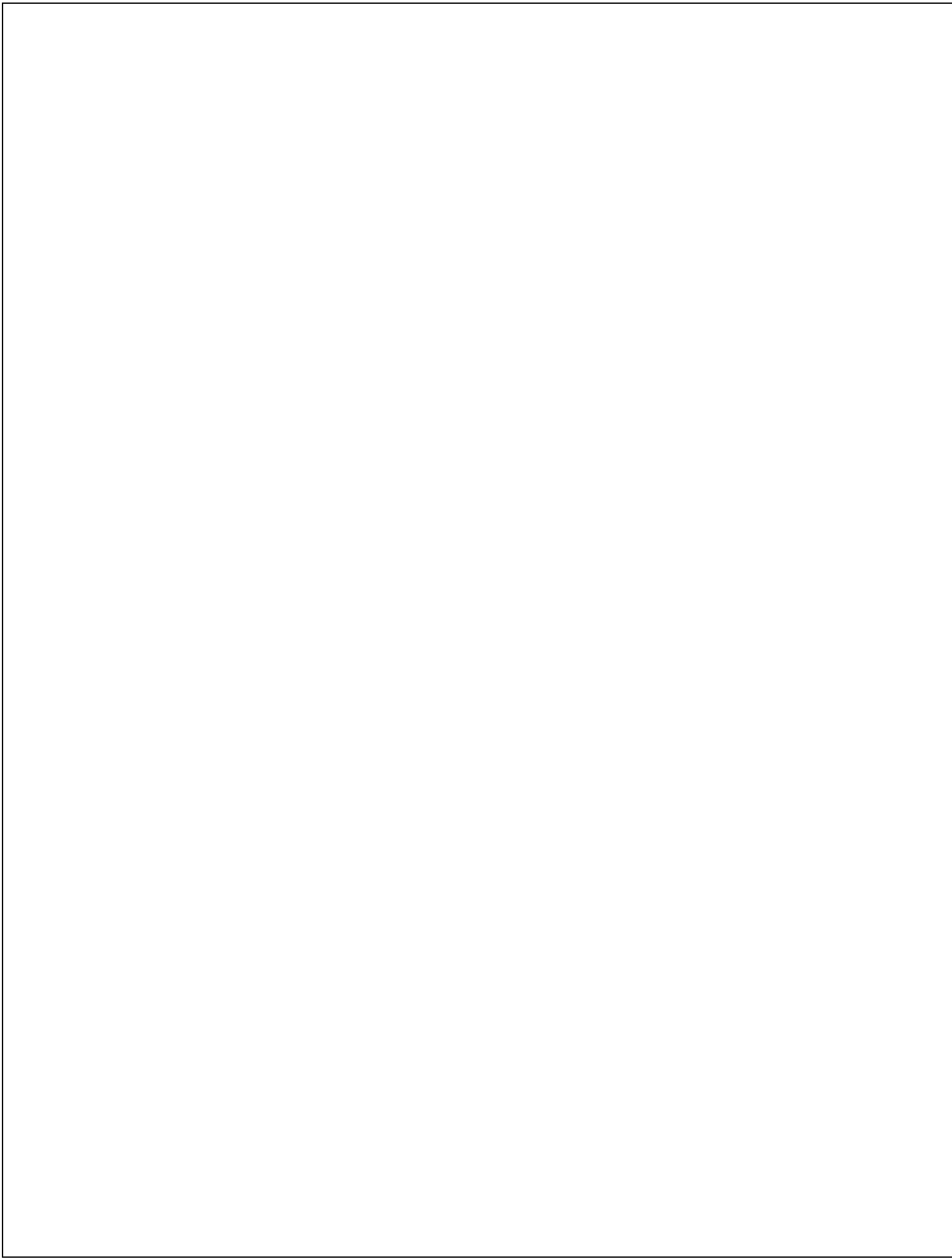
Jerrod advised M/I would revisit the number of lots requested and schedule a second meeting with the homeowners.

- October 15, 2014 – M/I Homes hosted a second informational meeting at Monon Trail Elementary. 18 homeowners were present. Jeffrey Lauer, Associate Planner, City of Westfield, and Town Council members Cindy Spoljaric and Bob Smith were also present. Jerrod Klein and Ann Walker Kloc, Land Acquisition Coordinator, both with MI Homes, presented. M/I modified the petition to reduce the number of lots affected. All lots in future Section 3 were removed. M/I requested lots 56, 61, 76, 80 and 82 be included in the petition to reduce the side yard request from 6' to 5'. In addition, M/I requested a 19' front yard setback in lieu of the required 20' on lots 24, 25 and 77. The homeowner's biggest concern was the amount of space between homes. M/I committed to a 12' aggregate between homes on these lots, which is the current standard in the neighborhood.

Final Request

Lots 56, 61, 76, 80, 82 - 5' side yard setback in lieu of the required 6'. 12' aggregate requirement between homes remains in place.

Lots 24, 25 (M/I is removing lot 77) – 19' front yard setback in lieu of the 20' requirement. Homes will face or have driveway access from Starview Drive. 12' aggregate requirement between homes remains in place.



PACKET OF PUBLIC COMMENT

1409-PUD-14

Water's Edge PUD Amendment

Hello,

I live in waters edge and agree we should not reduce the side yard setback from 6" to 5".
Thank you for listening.

Dawn Ambler

Hi

I'm a current resident at the Waters Edge At Spring Mill Trails I would like to place my **OBJECTION** to Petition 1409-PUD-14 by M/I Homes to reduce the Sideyard Setback from 6' to 5'. Please let me know if you need any further information from me. My contact information is provided below. I would like a response to know my email has been read.

Camilo Andrades
1282 Hazy Falls Blvd (I live on Lot 29)
Westfield IN 46074
Home # 317-399-6800
Email: CJ040508@gmail.com

Mr. Klein,

Thanks for providing the information and changes in the MI Proposal. I am in favor of the revised proposal. I think it addressed most of the concerns I had and those of my neighbors. It seems to me that the revisions give MI more flexibility and yet very few lots will be negatively impacted.

I realize that this PUD is over 5 years old and the housing market has improved/strengthened in the past 2 years, so the revision is necessary. I am pleased with the overall progress in the development, but hope that more attention will be given the ongoing maintenance of the development during the continued construction.

We will not be able to attend the Sept. 15th meeting because we will be out of town.

Good Luck,

Mike & Kathy Duff

Members,

I attended the Public hearing on the M/I Homes petition. I was disappointed by the lack of information presented by the M/I Homes representative and his lack of preparedness.

I want to express my objection and opposition to the petition as proposed. We moved into our home a year ago and have been very happy with our home and neighborhood and I fear that reducing the side setbacks will hurt the overall open feel that the current design of the neighborhood.

The only other suggestion I would consider as a compromise position would be to allow the 5' setback on every other lot on the northern most street of the property. This would impact about 6 lots and also guarantee a mix of homes on that street.

Thank you,

Mike and Kathy Duff
1251 Cliff View Dr.
Westfield, IN

M/i's newest proposal is good for us. We will write the council and let them know.

Thank you.

Kate Ellis

Greetings, my name is Wid Maylleur Gedeon and I am a homeowner at Wateredge community: 1306 Hazy Falls blvd in Westfield. The purpose of my email is to inform you that I strongly object to petition 1409-PUD-14 by M/I Homes to reduce the side yard setback in waters edge from the existing 6' down to 5'.

Greetings Mr. Smith and Ms. Spoljaric,

It has come to my attention that M/I Homes of Indiana, LP request has a request to reduce the side easement requirement from 6' to 5'.

Others have stated the various reasons more eloquently than I, however the sentiment is the same. I wish to state my position of opposition to the petition as there are other more suitable options rather than allowing the houses to be 1 foot closer to each other which is almost a 17% reduction in comparison.

Please do not allow the petition to pass. Just a simple drive through the neighborhood will show exactly how close 12 feet is, let alone 10 feet between the houses.

Thank you for your consideration.

Have a good day,

Devon

Devon Johnson

Lot #53

18176 Starview Dr. (Pending close on August 15th)

Westfield, IN 46074

Water's Edge at Springmill Trails

317-501-8574

dcj3boys@gmail.com

RE: Petition 1409-PUD-14 of M/I Homes of Indiana, L.P.

We....the attached signed residents of Water's Edge at Springmill Trails Subdivision....

object to this petition by M/I Homes to reduce the side yard setback standard from the current 6' down to 5' for ANY section of our subdivision, sections 1, 2 or 3.

We feel that 6' is close enough, is the standard as set and was accepted by M/I Homes as well as the homeowners. Reducing the side yard setback standard and thus allowing homes to have only 10' between them instead of 12' is not in the best interest of we existing homeowners or those who will purchase and build ongoing. While we realize not all homes will be 10' between them, it would allow for that and is Not in any way a good plan or something we wish to have.

The lots that M/I Homes wishes to change for their reason of building larger or wider homes is not in anyone's best interest excepting perhaps M/I homes. This subdivision was developed with the total number and size of lots with full understanding that M/I Homes has numerous home plans that will fit and can be built on these lots and maintain the existing 6' side yard setback standard. It seems they have chosen to not build or pursue offering those particular home plans. M/I Homes has options that do not require changing the standards at this time.

We built in Water's Edge in part due to the diversity of home plans and of homeowners. We also wish that this continues so our subdivision maintains as it began and every party accepted and believed would happen. There is no compelling reason to change this at all.

We respectfully ask that this petition be denied.

Homeowner Name

DAVID S. C. ROBINSON

Signed

[Signature]

Homeowner Name

MAUREN P. ROBINSON

Signed

Maureen P. Robinson

Address

18216 SANDY COVE LN.

Lot #

98

RE: Petition 1409-PUD-14 of M/I Homes of Indiana, L.P.

We....the attached signed residents of Water's Edge at Springmill Trails Subdivision....

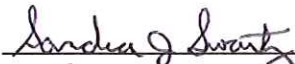
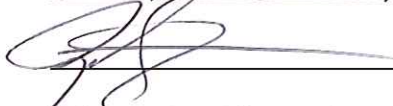
object to this petition by M/I Homes to reduce the side yard setback standard from the current 6' down to 5' for ANY section of our subdivision, sections 1, 2 or 3.

We feel that 6' is close enough, is the standard as set and was accepted by M/I Homes as well as the homeowners. Reducing the side yard setback standard and thus allowing homes to have only 10' between them instead of 12' is not in the best interest of we existing homeowners or those who will purchase and build ongoing. While we realize not all homes will be 10' between them, it would allow for that and is Not in any way a good plan or something we wish to have.

The lots that M/I Homes wishes to change for their reason of building larger or wider homes is not in anyone's best interest excepting perhaps M/I homes. This subdivision was developed with the total number and size of lots with full understanding that M/I Homes has numerous home plans that will fit and can be built on these lots and maintain the existing 6' side yard setback standard. It seems they have chosen to not build or pursue offering those particular home plans. M/I Homes has options that do not require changing the standards at this time.

We built in Water's Edge in part due to the diversity of home plans and of homeowners. We also wish that this continues so our subdivision maintains as it began and every party accepted and believed would happen. There is no compelling reason to change this at all.

We respectfully ask that this petition be denied.

Homeowner Name	<u>Sandra J. Swartz</u>
Signed	<u></u>
Homeowner Name	<u>Ramona B. Swartz</u>
Signed	<u></u>
Address	<u>18144 Starview Dr.</u>
Lot #	<u>50</u>

City of Westfield
Economic and Community Development Department
2728 East 171st Street
Westfield, Indiana 46074
317-804-3170
www.westfield.in.us

I wish to adamantly oppose and object to the petition 1409-PUD-14 by M/I Homes of Indiana, LP.

M/I Homes developed this PUD, and specifically Water's Edge at Springmill Trails section 1, 2, and 3, knowing exactly the sizes of lots that they could fit in and what house plans could be built on those different lots. And the standards of 6' setback on side yards was established which is really what the minimum should be. Personally in a subdivision such as this, 8' or 10' setback with a few less lots would have matched better for the area. That said, we built here knowing and accepting the 6' side yard setback.

Now after the fact M/I Homes wishes to change the rules so they can make more money and build larger homes on some lots which were originally meant for smaller homes and again, which M/I Homes designed as such in the first place. With that petition they prove they have no regard at all for the existing homeowners, which of course are the people who purchased in good faith and knowledge of the rules for the subdivision and with a trust that they would not be compromised after the fact. Shame on M/I Homes.

Any lots within Water's Edge at Springmill Trails sections 1, 2, and 3 that are as yet unsold or do not have any homes built on can, as the 6' side yard setback rule exists, can still have homes built on them. M/I Homes has many house plans and they knew when establishing this subdivision that building homes on all the lots would not be a problem, and it is not.

A better plan was, and should be moving forward, is to remove one lot per street, make all the other lots a bit larger and thus can build all of them with 3 car garages, larger homes, or really any of their home plans and have a bit more room between homes. Changing the standards is not in the best interest of Westfield, existing homeowners, or even new homeowners for that matter, and it also is for sure bad to consider changing it after the fact in already established subdivisions.

There is NO reason to allow this petition to be considered and thus disregard for all the existing homeowners and I respectfully request that petition 1409-PUD-14 be denied.

Dennis Wallace
1291 Cliff View Dr
Lot 21
Water's Edge at Springmill Trails



I attended the meeting with M/I and a few City Reps. I know that they stated there was no reason for them to move forward because they received their answer. However, we wanted to go ahead and have my appeal in writing. I do not agree with the request for many reasons and we do oppose their request for the 5" setback.

Thanks,
David and Jen Russell

Dear Members of the City Council and APC,

After attending Wednesday's meeting, August 27, with MI representatives in Water's Edge, my husband, Joe Ryan and myself are still opposed now and anytime in the future for our neighborhood community to alter the side setbacks to 5 feet.

We appreciate your time and consideration in this matter. Thank you for facilitating and your presence at this meeting. Your presence indicated your concern for the citizens of this community and we the citizens of Westfield as a whole. Thank you!

Respectfully,

Joe and Carla Ryan
1267 Cliff View Dr.
Westfield, Indiana
46074

Joeryan85@hotmail.com

Csryan52@hotmail.com

Thank you for considering and listening to our concerns regarding 1409-PUD-14. We especially want to thank and appreciate Mr. Hoover's and Cindy Spoljaric's time for comments. We acknowledge the solution from Mr. Hoover to consider that may appease both parties concerning the change in setbacks. We know there is a viable solution n when we work together for the common good. We look forward to our meeting with MI in the near future. Perhaps the meeting could take place at the model after closing one evening. If I may be of some assistance in this meeting please let me know, Carla Ryan @ csryan52@hotmail.com. Thank you!

Respectfully,

Joe and Carla Ryan
Water's Edge lot 18
1267 Cliff View Dr.
Westfield, IN
46074
Joeryan85@hotmail.com

Dear Cindy;

My wife Carla Ryan, contacted you after the last Westfield City Council meeting in regards to the request of MI Homes to reduce the offset from 6 to 5 feet between homes.

I too am against this request, as there are already 35 homes being built or under construction in our neighborhood. My home specifically would be impacted as there is a vacant lot on my west side. It makes no sense to reduce the footprint of new larger homes, when MI should have sold larger lots to go with the "top 3 popular homes" being sold in our neighborhood. When we bought our lot and home, we did so in good faith knowing our neighbor could be as close as 12 away. To request the reduction in offset between homes after already building homes, has broken my trust and faith in MI as a planner of urban development (PUD).

It is my belief that this request should be denied, as all property owners here will be negatively impacted by over crowding. This request will ultimately result in lower property values.

Thank you for listening to me on this subject.

Sincerely,

Joe Ryan
1267 Cliff View Dr
Westfield, In 46074
7655-524-6195

To all Members.....

After Receiving an email from MI wanting to compromise I still OPPOSE. At this time I am so disgusted with MI if I could I would move. Our whole atmosphere in the community has changed since MI has dumped on us and I could not be more disappointed with them. It seems to be a scare tactic now with them on the current homeowners. If they get away with changes again I will know for certain our system is just plain broken.

Jill Simonis
Lot 21
1291 Cliff View Dr

Good Morning;

After meeting with 2 people from MI at the Waters Edge sub-division model last night I am even more so OPPOSED to this setback.

MI has proved once more this is about **Greed** and greed only. They have the ability to take a lot or 2 out in section 3 and make their lots bigger to hold the houses they "want" in there. The lots still available in section 1 and 2 have homes that **will** fit on those lots.

MI has shown they do not have the homeowners best interest but just the best interest for MI Homes, putting a "spin" on home values increasing.....if they stuff more homes in...NO.

This is OUR home and community, we have the best neighbors, and would like to keep Water's Edge looking upscale !

Thank you

Jill Simonis Lot #21, 1291 Cliff View Dr.

I would like to express my opinion on this Water's Edge matter. I live at Lot #21, 1291 Cliff View Dr. and I OPPOSE this.

When we were looking to build we chose this subdivision for a couple reasons, but one was that the houses were not going to be on top of each other. By letting this pass would be an injustice to those of us who already live there. MI seems to want to keep changing as they go along to benefit themselves and not the homeowners. As I see it right now is it simply "greed" by MI to make more money. The rest of the houses will look very cookie cutter and out of uniform from the rest of the subdivision, so for Section 1, 2 and 3, I OPPOSE this.

There are 35 houses built in this subdivision and only 15 have 3 stall garages. One of our neighbors is on a 82 foot lot and was still told he could not have a 3 stall garage. MI knew going in their lot sizes and all the floor plans, and out of 14 house plans only 7 of those are built in here. They also have lots in the front section of #1 they are not selling, by choice, that would hold 3 stall garages. There are other floor plans they have that will fit on these lots, and if that does not work for MI then I would suggest they eliminate a lot and make the other lots bigger. We have been burned by MI "changing" rules since day 1. MI is not the Homeowner out here and when they are done building we the homeowners are going to be left, not MI.

Thank you
Jill Simonis

Dear Westfield Planning Commission Member,

I am writing to express my opposition to Petition 1409-PUD-14 by M/I Homes to reduce the side yard setback in Water's Edge from the existing 6' down to 5'. My husband and I feel very strongly that this will adversely change the dynamic of our neighborhood. We purchased our home with the understanding that all homes would have a 6' setback. We are disappointed that M/I Homes is trying to make this change now particularly because M/I Homes had the home plans in place when the lot sizes were determined. If M/I Homes wanted to accommodate more homes with 3-car garages then the number of lots should have been reduced to accommodate a larger lot and adhere to 6' setback. We are also not buying the argument put forth by M/I Homes that additional homes with a 3-car garage will improve the value of our home. Please do NOT approve reducing the setback to 5'.

Sincerely,

Brian and Mary Sommervold
1266 Hazy Falls Blvd
Westfield, IN 46074
LOT 31

ALCON,

Resident 1259 Cliff View Dr. I feel that the FIVE P'S were not used by M/I homes. Proper Planning prevents poor performance. The home owner should not have to submit a portion of their land for loss. Because leadership at M/I homes failed to figure out Land portioning prior to the building process. I strongly believe M/I homes is going back on their word. I look forward to getting feedback in regards to my statement and respectfully wait.

GEOFFREY STULTZ
SSG, INARNG
SUPPLY NCO

D Co 2-151 IN
1705 BURLINGTON AVE
FRANKFORT, IN 46041

OFC(317)247-3300 EXT:85192
CELL(317)410-0654
geoffrey.t.stultz.mil@mail.mil

Greetings All

We own a home and reside full-time in Water's Edge. We were very excited throughout the building process literally visiting the site daily until moving day! Our home is truly a blessing and we, for the most part, love our home. We are aware that try as we all might, few things in life turn out perfectly as planned and adjustments need to be made and we all must learn to adapt.

What should be a happy time as residents move into their new homes and make new friends has been overshadowed with drama if you will. New neighborhoods are full of energy. This energy is different than when moving into an existing neighborhood. Everyone shares a common experience. We wait with excitement as each new house is built and a new family moves into our growing community.

We are disappointed our joy has been diminished somewhat by poor planning on M/I's part. Instead of planning a Fall Neighborhood Cookout, the energy in our new community is now fully focused on a battle with M/I and options are sadly dividing residents.

Emotions are raw, as was evident at the meetings. I cannot help but feel the concern over the proposed change to the setback has been intensified by the dis-satisfaction of many with the lack of resolution regarding outstanding issues with their own homes and the neighborhood in general.

We cannot always make others behave as they should. That being said, when we chose a neighborhood and a builder, we did so in good faith. Confident we would be satisfied with the result. There is an expectation for our neighborhood based on the reputation of the builder. Sadly, as many expressed at the meetings our builder has fallen short of these expectations. Leaving many disappointed and frustrated.

The resolution of these issues should not be a bargaining chip for gaining the approval of the community for the change in variance. Routine housekeeping of common areas and unsold lots is expected and has not been satisfactorily effectuated up to this point. M/I has come to us and asked us to help them make the remaining lots more marketable. They admitted they made an error in planning when plotting the lots and only now are they working to correct what should have been done all along because there is currently no accountability.

The big question is what do we want for our neighborhood? We personally do not wish to see lots sitting empty a year or more from now. We also do not want homes too close together. Nor, do we want to see another builder buying up lots and building possibly, inferior homes. So, where is the compromise? You cannot unmilk a cow. There is a problem and it needs to be resolved. So, there needs to be a new plan. The original one is not working.

Some are concerned there are going to be too many of the same homes built if we agree to the setback. The other side is if we do not agree then won't there be an equal amount of the smaller products built on the remaining lots. So won't there be too many smaller homes built all in a row instead?

Taking a step back and looking at the situation without the emotion in the mix we cannot help but think of the old saying "Can't we all just play nice"? Is it possible for both sides to step higher?

A 50 ft. home on a 60 ft. lot is not going to accommodate a three-car garage or even a 4 ft. extension. Therefore, the concern that we are going to be overwhelmed with three-car garage homes is not even valid. Correct?

We desire that our neighborhood be completed and we believe M/I finishing the build as well as completing it sooner rather than later (so all of the homes are approximately the same age) is in the best interest of everyone's resale values. If someone is looking for a bit larger yard then our homes will be more desirable not less.

M/I must also step higher. I'm not suggesting that stepping higher is simply taking care of what they are expected to take care of...my daddy didn't pat me on the head because I brushed my teeth and made my bed...I was expected to do these things. He would however scold me if I did not! The problem is there is no accountability and the homeowners are powerless to force M/I to comply with the standard expected which has fostered ill-will.

M/I is expected to maintain the common areas and neighborhood until such time the homeowners take control of the HOA. Doing so makes the community more desirable to potential buyers and creates a community where current homeowners are proud to live.

In conclusion, we have given this situation a lot of thought. We have gone back and forth and have concluded that we all make mistakes, in our personal and professional lives. M/I has admitted they have made an error in judgment in our community in regard to the plotting of lots. They have also admitted they have fallen short maintaining the community.

While the resolution may not be exactly what everyone thought we were buying in to when we signed our contracts and the rules are changing a bit and yes, perhaps if we had the benefit of the proposed changes we, ourselves, would have made different choices. We feel the same grace we desire when we make a mistake should be given to others. Yes, M/I is a large company. Companies however, are made up of people. People who go to work every day and sometimes make mistakes. M/I is working to correct issues and create a plan that works for all concerned.

- The latest proposal received from M/I is reasonable and acceptable to us and has our support.
- We challenge the city to find a way to hold all builders in the community accountable, giving residents reassurance their communities will be maintained while both the HOA funds and control are out of their hands.

We are hopeful both sides will identify more on a human level and in the end both sides will put forth the effort to work towards the common goal of creating a beautiful community. A completely built, well maintained, beautiful community with happy residents! Then and only then, don't we all win?

Thank you for your thoughtful consideration of this matter.

Jim & Jeanette Tritz
18184 Starview Drive
Westfield, IN 46074

Petition 1409-PUD-14 by M/I Homes of Indiana, LP. It was introduced at City Council as Ordinance 14-34.

I wish to again state my opposition and objection to this petition in total for all sections and lots of the Water's Edge Subdivision without variations or changes from the existing 6' side yard setback standard.

I did attend the APC public hearing on August 18. With due respect, I do not see a compelling reason that M/I Homes actually needs this change. It would be no benefit to existing homeowners, City of Westfield, or in reality any new home buyers if all homes were to become large 3 car garage homes. Larger homes would not necessarily increase the property values since some of the 2 car garage ranch homes in Water's Edge actually are worth more and appraise higher than some of the larger 3 car garage homes.

I like the diversity of Water's Edge with different sizes and styles of homes with the mix of families, young couples, empty nesters and single homeowners. I feel M/I Homes is pushing just their larger and so called more popular homes and not building some spec homes of the smaller type to attract other buyers. I feel certain that if they were to build some of their 15 homes plans that will fit these lots as spec homes that they would sell very quickly. Every single spec home they have built in Water's Edge, including smaller with 2 car garages have sold quickly. That again is attracting the diversity of home buyers.

They have some unsold lots available that will accept homes with a three car garages in Section 1. Those lots are not being offered for sale as they say they are too close to the model home which would distract from people finding the model. They have lots to sell that people want but they will not sell them. Seems to go against what they say they need, larger lots when they have some. They also are in the process of soon opening section 3 which has more lots that would accommodate larger homes.

We built in Water's Edge because of how it was proposed and has been developing with the diversity of homes and homeowners. To change and possibly allow basically the same home plan on lot after lot will bring this subdivision to more of a cookie cutter look which is not what any homeowner wishes for where they live. M/I Homes will sell out and complete this subdivision, including section 3 which is not yet open, and then move on to someplace else. Who will be left in Water's Edge will be the homeowners to take care of each of our homes and our HOA, at that point overseen by we homeowners, to maintain this subdivision, hopefully as it was proposed to be developed and as we built accepting and in good faith thinking it would continue to be completed.

I appreciate the opportunity to express my concerns and feeling and the fact that the councils are willing to listen and try to understand the homeowners who in reality are who the subdivision really is. It is not just the homes and landscape and roads, but we homeowners that live and maintain it.

Thank you very much.

Dennis Wallace
1291 Cliff View Dr
Lot 21 Water's Edge at Springmill Trails
317-399-6178
dwalaska1@gmail.com

Good Day Again.....

Following the meeting between M/I Homes and homeowners at Water's Edge on Wednesday August 27, we received a sort of new plan by M/I Homes to still ask for a change in some side yard setbacks, now some only on the street side, and maybe leaving a few lots as it, but several others that even have homes already built on the lot next to those.

This still is not only not necessary but would even more so mismatch and mess up the diversity of this subdivision.

As was developed by M/I Homes, all the unsold lots have many home plan options that will fit, can be built, and will sell on these lots. They may want to sell homes with a 3 car garage, however as has been proven by the homes already built, not everyone wants a 3 car garage.

The standard was set, accepted by all parties, has been working and can continue to work and there is no compelling reason to change it. M/I wishes to build the 'product' they want but we the homeowners do not see a product, we see homes, our homes and our subdivision homes.

I must continue to adamantly oppose and object to any change in the original petition by M/I Homes or any change or compromise they propose. Leave the standards as they are.

Respectfully,

Dennis Wallace
1291 Cliff View Dr
Lot 21
317-399-6178
dwalaska1@gmail.com

I want to thank all of you that was able to attend the meeting between M/I Homes and the homeowners at Water's Edge.

I believe everyone got a clear understanding of the displeasure we all have with this petition to change the side yard setback standards. 6' is certainly close enough and reducing it is not at all in our best interests and we expressed that very clearly.

M/I Homes does have home plans to fit the unsold lots in this subdivision. They can also add even more home plans that will fit these lots as they do have them in their building portfolio.

For section 3, and it was mentioned several times, M/I Homes can remove a few lots there making the others larger to accept the particular homes that they say they want to build. That becomes the best for the current homeowners and a very easy thing for M/I Homes to do and in the end, all parties are fine.

For myself, I still adamantly oppose changing the side yard setback standards from 6' to 5' for ANY lots within the Water's Edge subdivision, section 1, 2, or 3.

Thanks for listening and reading our letters and emails.

Dennis Wallace
1291 Cliff View Dr
Lot 21 Water's Edge
317-399-6178
dwalaska1@gmail.com

I have attached a letter stating my concerns for any change to the existing standards for Water's Edge at Springmill Trails. I feel that 6' is still very close and wish it were more, but now, after the fact, to reduce it to 5' is not the right thing.

I appreciated the public hearing on this matter and the willingness of the council to listen to the homeowners. We built here accepting the standards and knowing the diversity of what it would become as it is developed and to change that up now is not in the best interest of our community. We homeowners are this community.

I know other homeowners have the same concerns and feelings and I thank you for reading our emails, letters, and taking your time for us to express these.

Dennis Wallace
1291 Cliff View Dr
Lot 21 Water's Edge at Springmill Trails
317-399-6178
dwalaska1@gmail.com

It was suggested that I perhaps drop you an email as well. I have sent emails and objection letters to: Economic and Community Development Department Jeffrey Lauer and two of the City Council members.

Those emails and this one as well pertain to the petition by M/I Homes of Indiana 1409-PUD-14 which was introduced to the City Council on August 11 as Ordinance 14-34.

I am totally against this for many reasons, the main one perhaps is that it is just plain wrong and no reason is in place for it to move forward.

The side yard setback was set as standard 6'. This should be minimum in most any subdivision. It was established by City of Westfield and accepted by the developer, M/I Homes. It was also accepted by all of the homeowners who have built here, and over half of sections 1 and 2 already have homes.

I was told M/I Homes has not remaining lots that will allow a home with a 3 car garage. That is not totally true. They have I believe 8 lots in section 1 near the model home and at least some of those possibly could accept a 3 car garage, but M/I Homes are not selling those lots. You will have to ask them why.

Also, section 3 is not yet open and could be yet this year. That section has lots that will accept a 3 car garage and since it is not open, they could even remove some lot making the others larger and put all 3 car garages there.

They could easily build spec homes on the lots they say they cannot sell, ones that will fit. And they have sold every single spec home in Water's Edge that they have built except the three current under construction. There are people like empty nesters, first time home buyers, young couples, that might love a smaller home with a 2 car garage but they have none here to look at because M/I Homes only wants to build larger more expensive homes.

Bottom line, to reduce the side yard setback from the Standard 6' as established and accepted to 5' will diminish the quality of Water's Edge at Springmill Trails, set a very bad precedence by the City of Westfield that other developers might think they could force a change as well.

Plus, it is a slap in the face of the existing homeowners who also built here and accepted the standard 6' side yard setback with good faith that they would not be encroached upon by a major change in the rules, so to speak.

I respectfully request this petition/ordinance be denied.
Thank you.

Dennis Wallace
1291 Cliff View Dr
Lot 21 Water's Edge at Springmill Trails
Westfield, In 46073
317-399-6178
dwalaskal@gmail.com

Jeffrey,

I attended last night's council meeting. Sorry I did not get a chance to meet you.

Weird that no one from M/I/ Homes was available to answer questions. I can answer one that was asked, I believe by Cindy Spoljaric. If this does not pass, can M/I Homes still build homes with 3 car garages. That answer is Yes. They have many lots in this subdivision that can accommodate 3 car garages. And for those lots that cannot, they also have numerous home plans that can be built on them.

M/I Homes was very short sighted when they developed this subdivision and put as many lots in it as they could. They knew then that some would not be able to accommodate their larger home plans, but they have many home plans that will work. If they had platted with a few less lots and all being a bit larger, they could build any of their home plans on any lot. I am sure all this was known when it went thru the planning phases and they agreed to the rules and standards and this should not be changed after the fact. I am sure you know that this subdivision is about half sold out and built on already and any change of standards from what we existing homeowners accepted would be a total disregard for us as tax paying citizens who accepted the standards. M/I Homes accepted those standards as well and should not be allowed to change.

I did send a letter my council member and to the City of Westfield Economic and Community Development Department and have attached a copy with this email.

Not sure you part in all of this, but I doubt you or any member of the council can look at the standard of 6' side yard setback and say that is too much room so let's reduce it. That in my opinion should be the very minimum and personally feel even that is too close.

Respectfully,

Dennis Wallace
1291 Cliff View Dr
Lot 21

Water's Edge at Springmill Trails
Westfield, In 46074
317-399-6178
dwalaska1@gmail.com

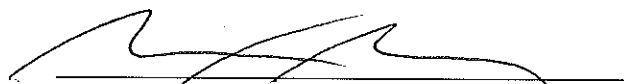
**WESTFIELD-WASHINGTON TOWNSHIP ADVISORY
PLAN COMMISSION CERTIFICATION**

The Westfield-Washington Township Advisory Plan Commission held a public hearing on Monday, December 15, 2014, to consider an amendment to the Zoning Map and Westfield-Washington Township Unified Development Ordinance. Notice of the public hearing was advertised and noticed in accordance with Indiana law and the Advisory Plan Commission's Rules of Procedure. Notice was shown to have been published in a newspaper of general circulation in Hamilton County, Indiana. The petition is as follows:

Docket No.	1409-PUD-14
Ordinance No.	14-34
Petitioner	M/I Homes of Indiana, LP
Description	M/I Homes of Indiana, LP requests an amendment to the Springmill Trails PUD Ordinance, affecting specified Lots within the Water's Edge Subdivision of the Springmill Trails PUD District.

On December 15, 2014, a motion was made and passed to send a unanimous favorable recommendation to the City Council regarding this petition (Vote: 7 in favor, 0 opposed).

The above-mentioned proposal and the Advisory Plan Commission's recommendation thereof are hereby certified.


Matthew S. Skelton, Secretary

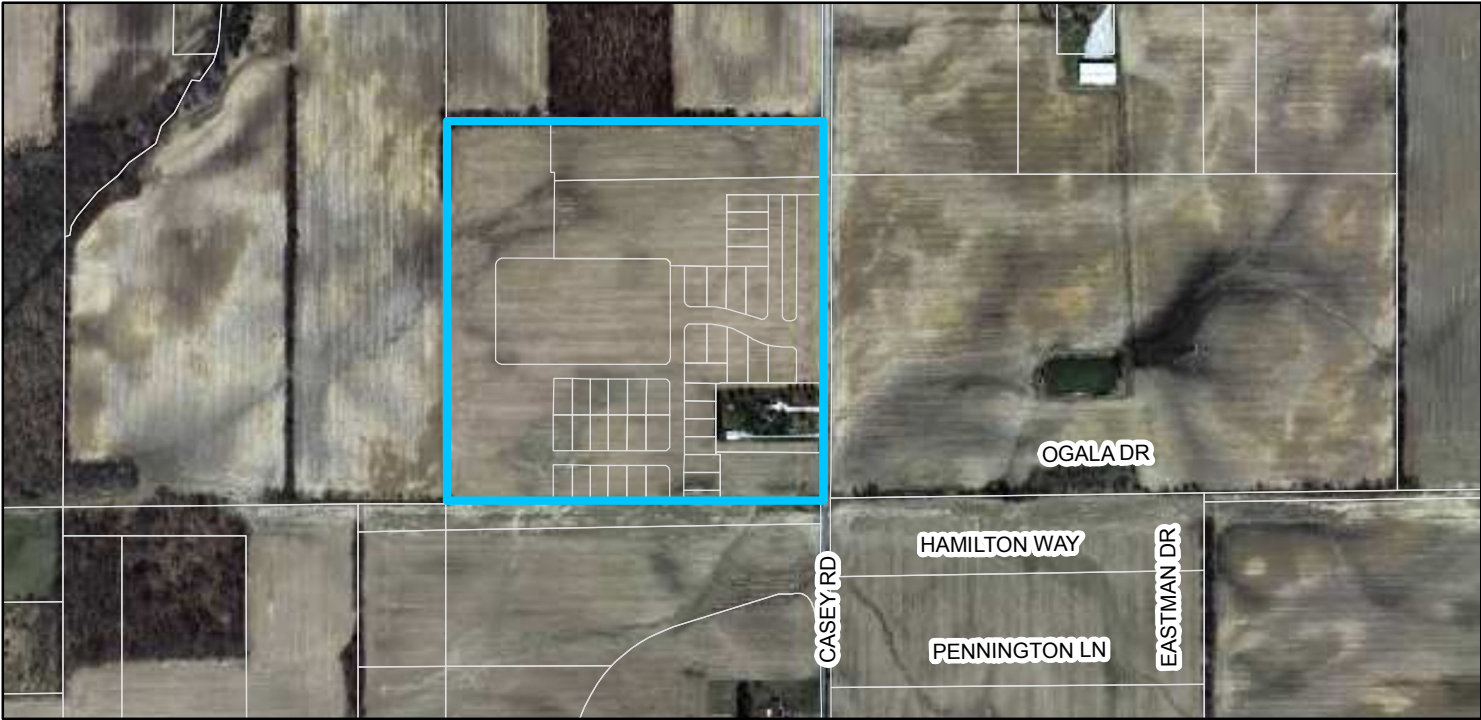
December 16, 2014
Date

Aerial Map
1409-PUD-14
Springmill Trails PUD Amendment

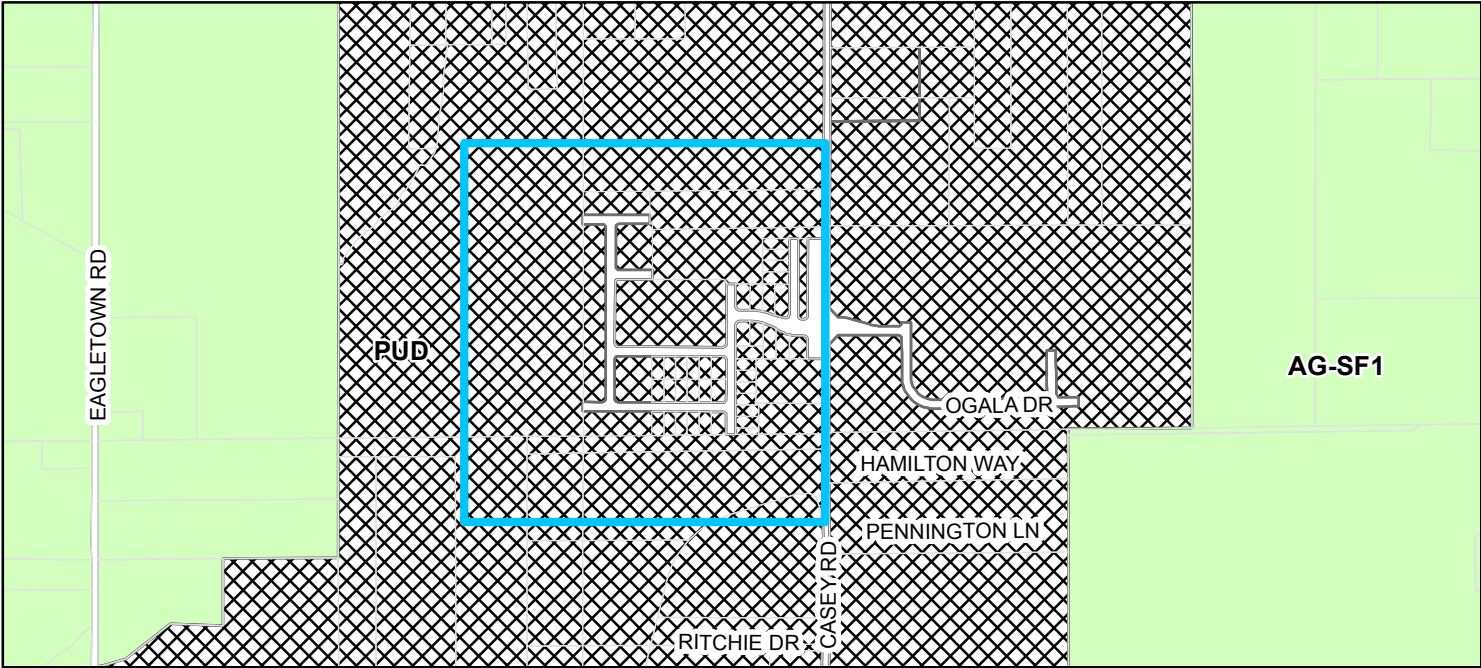


Aerial Location Map

 Site

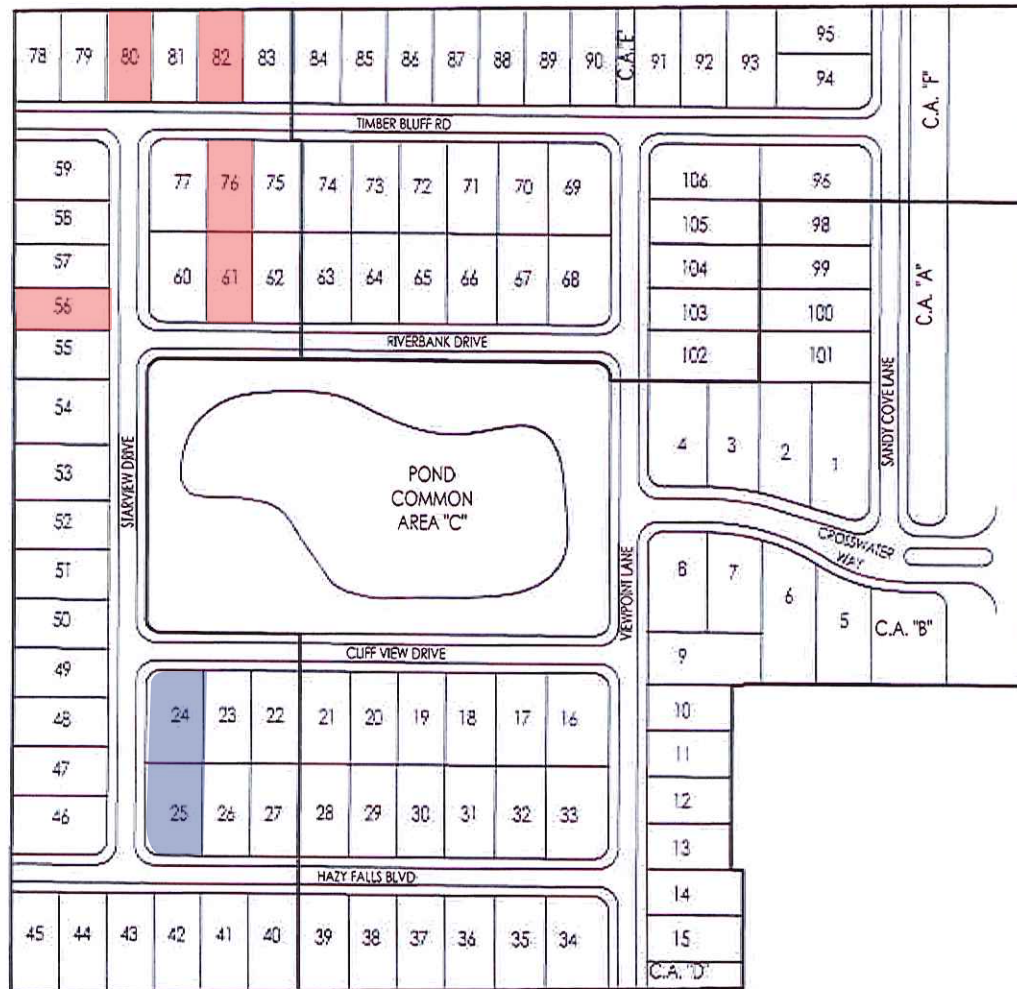


Zoning Map



Zoning

-  AG-SF1 (Agriculture - Single Family - 1)
-  PUD (Planned Unite Development)



-  Side Yard Modification
-  Front Yard Modification



1"=150'

PLAN COMMISSION ORDER NUMBER 15-01

**ORDER OF THE WESTFIELD-WASHINGTON PLAN COMMISSION
DETERMINING THAT THE DECLARATORY RESOLUTION
OF THE GIGABIT BROADBAND ECONOMIC DEVELOPMENT AREA
APPROVED AND ADOPTED BY THE
WESTFIELD REDEVELOPMENT COMMISSION CONFORMS
TO THE COMPREHENSIVE PLAN AND APPROVING
THE DECLARATORY RESOLUTION GIGABIT BROADBAND
ECONOMIC DEVELOPMENT AREA ECONOMIC DEVELOPMENT PLAN**

WHEREAS, the Westfield-Washington Plan Commission (the “Plan Commission”) is the body charged with the duty of developing a general plan of development for the City of Westfield, Indiana (the “City”); and

WHEREAS, the City of Westfield Redevelopment Commission (the “Redevelopment Commission”), pursuant to Indiana Code 36-7-14, as amended (the “Act”), adopted Declaratory Resolution No. 6-2014 on December 15, 2014 (the “Declaratory Resolution”), designating the area known as the “Gigabit Broadband Economic Development Area” (the “Economic Development Area”) as an economic development area pursuant to Section 41 of the Act; and

WHEREAS, the Declaratory Resolution approved an economic development plan for the Economic Development Area designated as the “Gigabit Broadband Economic Development Plan—Economic Development Area” (the “Plan”); and

WHEREAS, the Redevelopment Commission has submitted the Declaratory Resolution and the Plan to the Plan Commission for approval pursuant to the provisions of Section 16 of the Act, which Declaratory Resolution and Plan are attached hereto collectively as Exhibit A and made a part hereof; and

WHEREAS, in determining the location and extent of the Economic Development Area, the Plan Commission has determined that no residents of the City will be displaced by the proposed development thereof; and

WHEREAS, the Plan Commission has reviewed the Declaratory Resolution and the Plan and determined that they conform to the plan of development for the City, and now desires to approve the Declaratory Resolution and the Plan; and

WHEREAS, after being fully advised in the matter,

**NOW, THEREFORE, BE IT ORDERED BY THE
WESTFIELD-WASHINGTON PLAN COMMISSION, AS FOLLOWS:**

SECTION I. The Plan Commission hereby finds and determines that the Declaratory Resolution and the Plan for the Economic Development Area conform to the Comprehensive Plan of development for the City.

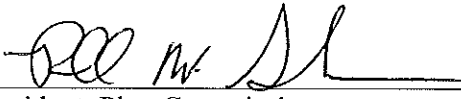
SECTION II. The Declaratory Resolution, the Area and the Plan for the Economic Development Area are hereby approved.

SECTION III. This resolution hereby constitutes the written order of the Plan Commission approving the Declaratory Resolution and the Plan for the Economic Development Area pursuant to Section 16 of the Act.

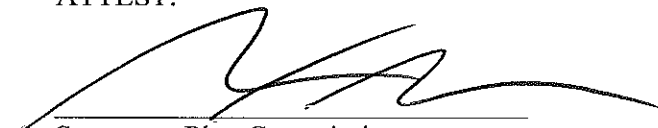
SECTION IV. The Secretary of the Plan Commission is hereby directed to file a copy of the Declaratory Resolution and the Plan for the Economic Development Area with the minutes of this meeting.

[Remainder of page intentionally left blank.]

PASSED THIS 5TH DAY OF JANUARY, 2015, BY THE
WESTFIELD-WASHINGTON TOWNSHIP PLAN COMMISSION,
HAMILTON COUNTY, INDIANA.



President, Plan Commission

ATTEST:


Secretary, Plan Commission

KD_6881334_1.DOC

EXHIBIT A

**WESTFIELD REDEVELOPMENT COMMISSION
DECLARATORY RESOLUTION NO. 6-2014
INCLUDING GIGABIT BROADBAND ECONOMIC DEVELOPMENT PLAN –
ECONOMIC DEVELOPMENT AREA INCLUDING FINDINGS OF FACT**

**WESTFIELD REDEVELOPMENT COMMISSION
DECLARATORY RESOLUTION NO. 6-2014**

**RESOLUTION OF THE CITY OF WESTFIELD REDEVELOPMENT COMMISSION
DECLARING AN AREA IN THE CITY OF WESTFIELD AS
AN ECONOMIC DEVELOPMENT AREA AND
APPROVING AN ECONOMIC DEVELOPMENT PLAN FOR SAID AREA**

WHEREAS, the City of Westfield, Indiana (the "City"), desires to undertake an economic development project that will assist the City in a project by Metro FiberNet, LLC, or its subsidiaries, affiliates, successors or assigns, to construct facilities to house electronics and to install fiber optic cable that will provide high speed internet, telephone and television services for the City (collectively, the "Metro FiberNet Project"); and

WHEREAS, the City of Westfield Redevelopment Commission (the "Commission"), governing body of the City of Westfield Department of Redevelopment (the "Department"), pursuant to Indiana Code 36-7-14, as amended (the "Act"), has thoroughly studied an area of the City, which area consists of the possible locations throughout the City of all depreciable personal property consisting of the actual space where new fiber optic cable will be laid due to the Metro FiberNet Project in the City, with such areas designated as the "Gigabit Broadband Allocation Area," which area is also an economic development area (the "Economic Development Area"); and

WHEREAS, there has been presented to this meeting for consideration and approval of the Commission a development plan (the "Plan") for the Economic Development Area and entitled "Gigabit Broadband Economic Development Plan—Economic Development Area" which Plan is attached hereto and incorporated herein by reference as Exhibit A; and

WHEREAS, to the extent relevant to the Metro FiberNet Project, the Commission has caused to be prepared maps and plats showing the boundaries of the Economic Development Area, the location of various parcels of property, streets, alleys, and other features affecting the replatting, replanning, rezoning, or redevelopment of the Economic Development Area, and the parts of the Economic Development Area that are to be devoted to public ways, sewerage and other public purposes under the Plan; and

WHEREAS, the Commission has caused to be prepared estimates of the costs of the development projects as set forth in the Plan; and

WHEREAS, the Plan and supporting data were reviewed and considered at this meeting; and

WHEREAS, Section 39 of the Act has been created and amended to permit the creation of "allocation areas" to provide for the allocation and distribution of property taxes for the purposes and in the manner provided in said section; and

WHEREAS, Sections 41 and 43 of the Act have been created to permit the creation of “economic development areas” and to provide that all of the rights, powers, privileges and immunities that may be exercised by this Commission in a redevelopment area or urban renewal area may be exercised in an economic development area, subject to the conditions set forth in the Act; and

WHEREAS, the Commission deems it advisable to apply the provisions of said Sections 39, 41, and 43 of the Act to the Plan and financing of the Plan.

NOW, THEREFORE, BE IT RESOLVED by the City of Westfield Redevelopment Commission, governing body of the City of Westfield Department of Redevelopment, as follows:

1. The Plan for the Economic Development Area promotes significant opportunities for the gainful employment of its citizens and meets other purposes of Sections 2.5, 41 and 43 of the Act, including without limitation benefiting public health, safety and welfare, increasing the economic well-being of the City and the State of Indiana (the “State”), and serving to protect and increase property values in the City and the State.

2. The Plan for the Economic Development Area cannot be achieved by regulatory processes or by the ordinary operation of private enterprise without resort to the powers allowed under Sections 2.5, 41 and 43 of the Act because of lack of local public improvements, including without limitation the cost of the projects contemplated by the Plan.

3. The public health and welfare will be benefited by accomplishment of the Plan for the Economic Development Area.

4. The accomplishment of the Plan for the Economic Development Area will be a public utility and benefit as measured by the attraction or retention of permanent jobs, an increase in the property tax base, improved diversity of the economic base and other similar public benefits.

5. The Plan for the Economic Development Area conforms to other development and redevelopment plans for the City.

6. The Commission pursuant to the requirements of Section 39(b) of the Act, after examining the Plan including the Findings of Fact contained therein attached hereto as Exhibit A, and taking testimony, further finds that the adoption of the allocation provisions of the Act will result in new property taxes in the Allocation Area (as hereinafter defined) that would not have been generated but for the adoption of the allocation provisions.

7. In support of the findings and determinations set forth in Sections 1 through 5 above, the Commission hereby adopts the specific findings set forth in the Plan.

8. The Plan does not recommend any specific property acquisition and the Department does not at this time propose to acquire any specific parcel of land or interests in land within the boundaries of the Economic Development Area. At the time the Department proposes to acquire specific parcels of land, the required procedures for amending the Plan under

the Act will be followed, including notice by publication and to affected property owners and a public hearing.

9. The Commission finds that no residents of the Economic Development Area will be displaced by any project resulting from the Plan, and therefore finds that it does not need to give consideration to transitional and permanent provisions for adequate housing for the residents.

10. The Plan is hereby in all respects approved, and the secretary of the Commission is hereby directed to file a certified copy of the Plan with the minutes of this meeting. The Economic Development Area is hereby designated as an “economic development area” under Section 41 of the Act.

11. The entire Economic Development Area is hereby designated as an “allocation area” pursuant to Section 39 of the Act for purposes of the allocation and distribution of property taxes for the purposes and in the manner provided by said Section. Any real property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in said allocation area shall be allocated and distributed as follows:

Except as otherwise provided in said Section 39, the proceeds of taxes attributable to the lesser of the assessed value of the property for the assessment date with respect to which the allocation and distribution is made, or the base assessed value, shall be allocated to and when collected paid into the funds of the respective taxing units. Except as otherwise provided in said Section 39, property tax proceeds in excess of those described in the previous sentence shall be allocated to the redevelopment district and when collected paid into an allocation fund for said allocation area that may be used by the redevelopment district to do one or more of the things specified in Section 39(b)(3) of the Act, as the same may be amended from time to time. Said allocation fund may not be used for operating expenses of the Commission. Except as otherwise provided in the Act, before July 15 of each year, the Commission shall take the actions set forth in Section 39(b)(4) of the Act.

12. The foregoing allocation provision shall apply to all of the Economic Development Area and shall expire on the date that is twenty-five (25) years after the date on which the first obligation is incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues. The base assessment date for the allocation area shall be March 1, 2014.

13. Said allocation area is hereby designated as the “Gigabit Broadband Allocation Area,” and said allocation fund is hereby designated as the “Gigabit Broadband Allocation Fund.”

14. Pursuant to Section 39.3 of the Act, the Commission designates as a “designated taxpayer” Metro FiberNet, LLC and its successors or assigns or any affiliate of Metro FiberNet, LLC and its successors or assigns (the “Designated Taxpayer”).

15. The Commission hereby modifies the definition of property taxes in IC 36-7-14-39(a) for the purposes of including taxes imposed under IC 6-1.1 on the depreciable personal property of the designated taxpayer described above and all other depreciable property located

and taxable on the designated taxpayer's site of operations in the Allocation Area. This allocation provision shall expire on the date that is twenty-five (25) years after the date on which the first obligation is incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues.

16. The Commission finds that:

(a) The taxes to be derived from the Designated Taxpayer's depreciable personal property in the allocation area and all other depreciable property located and taxable on the designated taxpayer's site of operations within the allocation area in excess of the taxes attributable to the base assessed value of that personal property, are needed to pay debt service on bonds issued under IC 36-7-14-25.1, or to make payments or to provide security on leases payable under IC 36-7-14-25.2, in order to provide local public improvements for the particular allocation area;

(b) The taxpayer's property in the allocation area consists primarily of industrial, manufacturing, warehousing, research and development, processing, distribution, or transportation related projects; and

(c) The taxpayer's property in the allocation area does not consist primarily of retail, commercial or residential projects.

17. The officers of the Commission are hereby directed to make any and all required filings with the Indiana Department of Local Government Finance and the Hamilton County Auditor in connection with the creation of the allocation area.

18. The provisions of this Resolution shall be subject in all respects to the Act and any amendments thereto.

19. This Resolution, together with any supporting data and together with the Plan, shall be submitted to the Westfield-Washington Advisory Plan Commission (the "Plan Commission") and the Common Council of the City of Westfield (the "Common Council") as provided in the Act, and if approved by the Plan Commission and the Common Council, shall be submitted to a public hearing and remonstrance as provided by the Act, after public notice as required by the Act.

[Remainder of page intentionally left blank.]

ADOPTED AND PASSED THIS 15th DAY OF DECEMBER, 2014,
BY A VOTE OF 4 IN FAVOR AND 0 OPPOSED, BY THE
WESTFIELD REDEVELOPMENT COMMISSION, HAMILTON COUNTY, INDIANA.

By: Joseph Plankis
Joseph Plankis, President

By: Joseph E. Ingalls
Joseph E. Ingalls, Vice President

By: _____
Scott Robison, Secretary

By: Bill Doyle
Bill Doyle, Member

By: Doug Holz
Doug Holz, Member

ATTEST:

Matthew S. Skelton
Matthew S. Skelton, Esq.

This resolution prepared by:

James T. Crawford, Jr., Esq.
Krieg DeVault LLP
12800 North Meridian Street, Suite 300
Carmel, IN 46032
317.238.6239

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. /s/ James T. Crawford, Jr.

KD_6850849_4.docx

EXHIBIT A

**GIGABIT BROADBAND ECONOMIC DEVELOPMENT PLAN –
ECONOMIC DEVELOPMENT AREA
INCLUDING FINDINGS OF FACT**

CITY OF WESTFIELD, INDIANA

Gigabit Broadband Economic Development Area

Economic Development Plan

TABLE OF CONTENTS

REQUIRED FINDING OF FACTS TO SUPPORT THE STATUTORY REQUIREMENTS.....	2
FACTS.....	2
CITY OF WESTFIELD REDEVELOPMENT COMMISSION	3
THE PROCESS OF DESIGNATING AN ECONOMIC DEVELOPMENT AREA	5
EXAMPLES OF HOW THE CITY INTENDS TO MEET THE STATUTORY FINDINGS	6
FACTUAL REPORT IN SUPPORT OF FINDINGS CONTAINED IN RESOLUTION NO. 6-2014.....	8

**REQUIRED FINDING OF FACTS TO
SUPPORT THE STATUTORY REQUIREMENTS**

FACTS

1. The Economic Development Plan (the “Plan”) promotes significant opportunities for gainful employment of its citizens, attracts new major business enterprises to the City of Westfield, Indiana (the “City”), retains and expands significant business enterprises existing in the boundaries of the City, and meets other statutory purposes, as set forth in Indiana Code Sections 36-7-14-2.5 and 36-7-14-43.
2. The Plan for the Gigabit Broadband Economic Development Area (the “EDA”) cannot happen by regulatory process or by the ordinary operation of private enterprise because of the lack of public infrastructure or other similar conditions thereby necessitating the establishing of an allocation area to assist in the funding of the required infrastructure.
3. The public health and welfare will benefit by the accomplishment of the Plan for the EDA.
4. The achievement of the Plan for the EDA will constitute a public utility and will benefit as measured by the attraction or retention of permanent jobs, an increase in the property values, thus equating to increased assessed value (which herein is defined as “assessed value”), improved diversity of the economic base through the enhanced mix of property and other public benefits and the expansion of technology and high speed internet services to a significant portion of the City, which is in direct alignment with the goals of the City.
5. The Plan for the EDA conforms to other development and redevelopment plans for the City.
6. A representative of Metro FiberNet, LLC testified at the December 15, 2014 Redevelopment Commission meeting that building out a fiber optic system such as the one being proposed for the Metro FiberNet Project is extremely capital intensive and Metro FiberNet, LLC would not undertake the Project without the establishment of the Allocation Area and the resultant availability of TIF increment to assist with the cost of building out the Project.

ECONOMIC DEVELOPMENT PLAN
GIGABIT BROADBAND ECONOMIC DEVELOPMENT AREA
CITY OF WESTFIELD REDEVELOPMENT COMMISSION
FOR THE
CITY OF WESTFIELD

Purpose

This document is the City Economic Development Plan (the “Plan”) for the Gigabit Broadband Economic Development Area (the “EDA”) contained within the City. This document is intended to be approved by the Westfield City Plan Commission, the Westfield City Council and the City of Westfield Redevelopment Commission in conformance with IC-37-14.

Introduction

The Westfield area economic base was developed for the home of corporate headquarters, back office operations, high tech manufacturing, distribution operations, youth sports industry, logistics, technology driven businesses and high quality living. The Westfield area is where the talent lives and works. The area has a well-diversified base of employers headed by IMMI (550), Standard Locknut (167), Porter Engineer Systems (145) and Custom Concrete (136). Hamilton County is the largest suburban employment and residential hub in Central Indiana. The unemployment rate has remained lower than state and national rates throughout the recession. The current employment in Hamilton County is approximately 112,000.

Westfield was founded in 1834 and was incorporated as a town in 1848. In 2008, Westfield was incorporated as a city and its population is about 32,000 (2012). While Westfield has experienced rapid population growth since 1990, in recent years, it has suffered from a significant slowdown in its economy. New business growth, housing permits and new home starts stalled and city revenue growth was flat for several years. During the slowdown, Westfield constructed a \$45 million outdoor portion of the 400 acre Grand Park and is recruiting quality shops, restaurants, hotels, businesses and other commercial development to increase and diversify its tax base. The City Council has recently approved a \$25 million plan for the private/public development of an indoor facility at Grand Park. The indoor arena will bring year-round activity to Grand Park that will foster economic development and grow the tax base. Also, to foster quality growth, Westfield has embarked on major downtown revitalization projects. Stakeholders continue to expect and demand high quality infrastructure, community services,

education, businesses, jobs, housing and technology investments to meet their quality of life expectations in Westfield.

To remain competitive and continue to move forward in achieving its goal for Westfield to be a destination and grow its tax base, the need for sufficient bandwidth and high speed telecommunications is essential. The Google like fiber Gigabit City project proposed by Metro FiberNet, LLC to bring Gigabit services to the premise will provide Westfield 21st century communications infrastructure that will facilitate the efforts to enhance the opportunities for the existing workforce and businesses, as well as assist in the attraction of new enterprises and enhance the overall quality of life. .

Description of the Area

The Area is located within the boundaries of Westfield. (See Appendix A for the detailed maps of the Area. Yellow lines represent projected locations of Metro FiberNet overhead infrastructure and blue lines represent projected locations of Metro FiberNet underground infrastructure.) It is the intention of this Plan to create an allocation area within the Area that consists solely of all of the personal property of Metro FiberNet, which personal property consists of fiber optic cable and associated fiber equipment that will be placed either on poles or underground, depending upon where the existing utilities lay. The allocation area will, by definition, be where the personal property of Metro FiberNet exists, and can move when the fiber optic cable is moved. The designation of the Area is to delineate where the fiber optic cable and associated fiber equipment may be located, but is not in and of itself the allocation area.

Project Description

Metro FiberNet Potential Project List Within TIF Area / EDA

..... The personal property to be captured as the allocation area will consist of:

1. New fiber optic cable and associated fiber equipment installed by Metro FiberNet ;
2. Pre-cast concrete equipment storage building and fiber cabinets that are classified as personal property in locations to be determined; and
3. Electronic and optical equipment within the equipment storage building and cabinets.

THE PROCESS OF DESIGNATING AN ECONOMIC DEVELOPMENT AREA

The following represents a general narrative summary of the sequence of actions to be undertaken in support of the designation of the EDA. Each step will be reviewed by the legal staff of the City of Westfield, by Bond Counsel and the Financial Advisor.

After formation of the Plan, it will be submitted to the Redevelopment Commission of the City of Westfield for consideration and approval. Upon presentation and discussion, the Redevelopment Commission may approve the Plan in its entirety, make modifications to the Plan and approve the Plan as amended, or reject the Plan and the designation of an EDA.

Declaratory Resolution

If the Redevelopment Commission desires to approve the Plan, it will pass a Declaratory Resolution of the Redevelopment Commission. The Declaratory Resolution declares the intent of the Redevelopment Commission to create an EDA.

Plan Commission Review

After passing the Declaratory Resolution, the Redevelopment Commission must then submit the Plan to the City of Westfield Plan Commission for review to assure that it conforms to the plan of development for the City. The Plan Commission's task is to affirm that the Plan conforms to the plan of development of each jurisdiction as contained in the Comprehensive Plan. The Plan can propose an alteration of land use or zoning to any of the jurisdictions in response to a specific economic development proposal, but if it does so, such alteration or rezoning must be approved by the Plan Commission. This Plan was developed in compliance with the current Comprehensive Plan and no deviation is anticipated.

City Council Approval

Upon receiving approvals of the Redevelopment Commission and the Plan Commission, the Plan must be submitted to the City of Westfield Common Council for approval before it can be implemented. The City Council may reject the Plan or approve the Plan. The City Council also must approve the Redevelopment Commission's determination that the Area is an economic development area under the redevelopment statute.

Notice of Public Hearing and Tax Impact Statement

Upon receipt of approval by the City Council, the Redevelopment Commission must publish a notice of the adoption of the Declaratory Resolution and the date upon which the Redevelopment Commission will conduct a public hearing thereon, which must be no sooner than 10 days following the publication of the notice. The Redevelopment Commission also must deliver a copy of the notice, along with a statement disclosing the impact of the Area, to each taxing unit that is wholly or partially located in the Area.

Confirmatory Resolution

The Redevelopment Commission must then conduct the public hearing and pass a Confirmatory Resolution which confirms the Redevelopment Commission's intention to designate the EDA as set forth in the Plan. The Redevelopment Commission is not required to take this action, but may consider whether the Area designation is still appropriate. If the Redevelopment Commission passes the Confirmatory Resolution, the EDA is then finally declared and designated.

Bond Counsel for the project will assure that all necessary and appropriate filings and administrative actions are taken. It is, therefore, important that the various agencies, bodies, elected officials and the general public understand the limitations which are imposed on subsequent decision and actions by these various agencies and bodies.

**EXAMPLES OF HOW THE CITY INTENDS TO MEET
THE
STATUTORY FINDINGS**

Metro FiberNet

The fiber optic system planned by Metro FiberNet (and its affiliated companies including, but not limited to, Metro FiberNet, LLC) will enhance economic development and improve the overall financial health of Westfield by enhancing efforts to expand and diversify the economy by attracting 21st century businesses which rely upon technology and require sufficient bandwidth in order to locate in Westfield. Also, it will directly create 8 to 10 jobs with an annual payroll of approximately \$ 400,000 to \$500,000 within the Westfield Area.

It is crucial to the long term fiscal health and quality of life of Westfield that we are positioned to attract these technology driven businesses especially those in logistics, advanced manufacturing, technology centers, corporate and back office operations. The local workforce is trained in these vocations and additional training will improve skill levels to a degree commensurate with those required in the aforementioned industries.

Financing the Projects

It is the intention of the Redevelopment Commission to create a Tax Incremental Finance ("TIF") District and to capture the incremental depreciable personal property within the EDA in order to finance the necessary projects. The TIF District must be established by March 1, 2015 so that the Redevelopment Commission may receive funds in 2015. If this does not occur, the already formed Redevelopment Commission will not be able to meet the needs that are projected to occur shortly.

It will be necessary to issue bonds sometime in the near future, based on the incremental *ad valorem* property taxes allocated under IC 36-7-14-39, in order to raise money for completion of the Projects in the Area.

The financing will be used for part, or all, of the following:

- (1) All reasonable and necessary architectural, engineering, and construction, equipment, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and development of the Project or the issuance of bonds;
- (2) Interest on, and principal of, the bonds issued by the Commission for the project; and
- (3) Expenses that the Commission is required or permitted to pay under IC 8-23-17.

Metro FiberNet has estimated the total cost of their project within the City of Westfield will about \$10 to \$15 million.

Based upon the estimated investment of depreciable personal property to be located within the various taxing districts, Metro FiberNet, LLC would be requesting assistance through the issuance of TIF Revenue Bonds by the City Westfield in an estimated aggregate amount not to exceed \$2 million with a term not to exceed 25 years. The Bonds, when issued, would be paid solely from the incremental revenues generated within the Area and would not cause a general or moral obligation on the part of the Redevelopment Commission or the City.

Amendment of the Plan

By following the procedures specified in IC 36-7-14-15 the Redevelopment Commission may amend the Plan for the Area.

**FACTUAL REPORT IN SUPPORT OF FINDINGS
CONTAINED IN RESOLUTION NO. 6-2014**

1. The Plan for the Gigabit Broadband Economic Development Area (the "Area") will promote significant opportunities for growth and the gainful employment of citizens of the City by providing the means to extend state of the art fiber optic lines and high speed internet services to the Area. This 21st century infrastructure is necessary to attract employers engaged in quality high technology operations, back office, corporate offices, corporate headquarters, sports related industries, logistics, hotels and residential development. This infrastructure will improve Westfield's ability to attract employers as follows:

- A. To locate in the Area, entities require sites that are shovel ready with all required infrastructure, including Gigabit broadband services. This Plan provides for the public funding of the fiber optic lines and electronic equipment required to bring high speed (Gigabit) internet services throughout the Area.
- B. The Plan provides for these services to be brought to publicly owned sites that are developed or will be developed as shovel ready sites suitable for development by entities that are engaged in logistics, back office operations, corporate offices, high technology, health care and quality living.

2. The Plan:

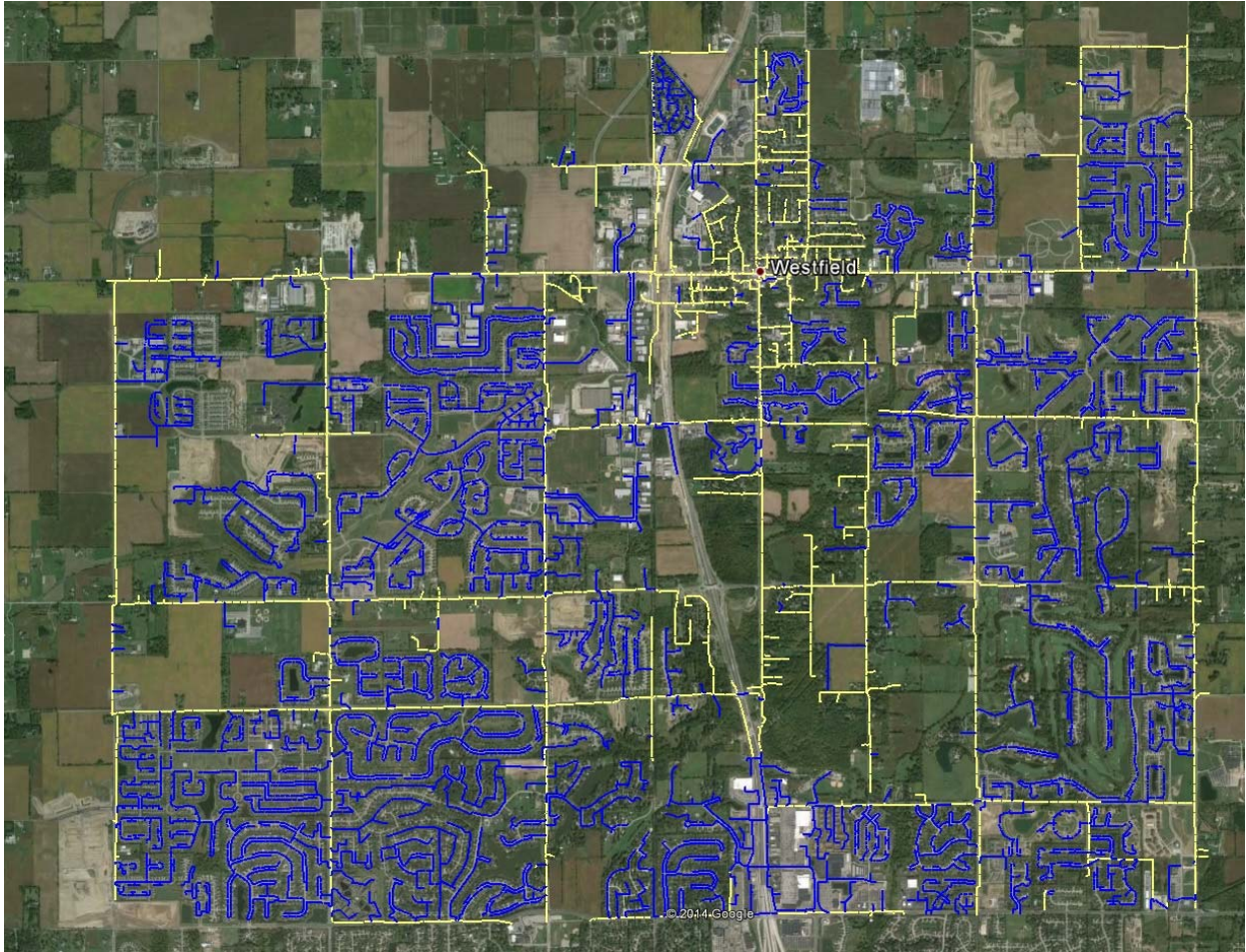
- A. Will promote significant opportunities for the gainful and quality employment of the citizens of the City;
- B. Is likely to attract major new business and home grown enterprises as a result of the existence of fiber optic broadband services (with Gigabit services to the home);
- C. Enables the use of public funding to guide infrastructure design and construction and thus development in the Area to promote basic employment and mixed uses of the land, to an extent individual property owners would not otherwise attain.
- D. Benefits the public health, safety, morals and welfare of the citizens of Westfield, the County and State as follows: The Plan, when fully implemented, will add high speed (Gigabit) broadband services that are required in the transmission of medical records. Development of this 21st century infrastructure will permit the City to approach land use development, public services, resources and public investments in a positive manner; and

- E. Increases the economic well being of the City and the State of Indiana in direct alignment with elected officials, at every level of government, and local stakeholders public statements of promoting economic development opportunity in Indiana through the extension of 21st century broadband services throughout the state.
- 3. The planning and development of the Area will benefit the public health, safety morals and welfare; it will increase the economic well being of the City and serve to protect and increase property values in both the City and the State of Indiana.
 - A. The Plan will create new employment opportunities;
 - B. The Plan will diversify the local economy and add employment opportunities that do not now exist and cannot exist without the addition of 21st century Gigabit broadband; and
 - C. Fiber optic Gigabit broadband services are not available in vacant land within the Area. The Plan promotes development throughout the Area.
- 4. The Plan for the Area cannot be achieved by the regulatory processes or by ordinary operation of private enterprise without resorting to IC 36-7-14 (the Redevelopment statutes) because of the lack of public improvements, the existence of geological impediments to industrial development and multiple ownership of land.
- 5. The accomplishment of the Plan for the Area will be of public utility benefit, for the following reasons. First, it is estimated that the full development of the Area, pursuant to the Plan will allow for the immediate attraction of approximately 8 to 10 permanent high tech jobs in the Westfield Area by January 2016. The foregoing estimate is based upon representation of Metro FiberNet, LLC. Secondly, current employers in Westfield have indicated a need for updated fiber optic Gigabit broadband services to transmit engineering, medical records, graphics, books and technical information. The expectation is that hundreds of local jobs will be preserved, retained and attracted as a result of implementation of the Plan. This information has been developed through discussions with a number of community stakeholders. It is also estimated that, when fully developed in accordance with the Plan, the assessed value for Depreciable Personal Property will be increased by approximately \$15 million within the Westfield Area. The foregoing estimate is based upon representations of Metro FiberNet, LLC.
- 6. The Commission believes that the TIF District will generate, over time, along with federal, state and local funds, sufficient monies to fully implement the Plan.

7. Metro FiberNet, LLC has represented to the City that building out a fiber optic system such as the one being proposed for the Metro FiberNet Project is extremely capital intensive and Metro FiberNet, LLC would not undertake the Project without the establishment of the Allocation Area and the resultant availability of TIF increment to assist with the cost of building out the Project.

APPENDIX A

PROJECTED LOCATIONS OF THE METRONET INFRASTRUCTURE



Yellow lines represent projected locations of Metro FiberNet overhead infrastructure and blue lines represent projected locations of Metro FiberNet underground infrastructure.

PLAN COMMISSION ORDER NUMBER 15-01

**ORDER OF THE WESTFIELD-WASHINGTON PLAN COMMISSION
DETERMINING THAT THE DECLARATORY RESOLUTION
OF THE GIGABIT BROADBAND ECONOMIC DEVELOPMENT AREA
APPROVED AND ADOPTED BY THE
WESTFIELD REDEVELOPMENT COMMISSION CONFORMS
TO THE COMPREHENSIVE PLAN AND APPROVING
THE DECLARATORY RESOLUTION GIGABIT BROADBAND
ECONOMIC DEVELOPMENT AREA ECONOMIC DEVELOPMENT PLAN**

WHEREAS, the Westfield-Washington Plan Commission (the “Plan Commission”) is the body charged with the duty of developing a general plan of development for the City of Westfield, Indiana (the “City”); and

WHEREAS, the City of Westfield Redevelopment Commission (the “Redevelopment Commission”), pursuant to Indiana Code 36-7-14, as amended (the “Act”), adopted Declaratory Resolution No. 6-2014 on December 15, 2014 (the “Declaratory Resolution”), designating the area known as the “Gigabit Broadband Economic Development Area” (the “Economic Development Area”) as an economic development area pursuant to Section 41 of the Act; and

WHEREAS, the Declaratory Resolution approved an economic development plan for the Economic Development Area designated as the “Gigabit Broadband Economic Development Plan—Economic Development Area” (the “Plan”); and

WHEREAS, the Redevelopment Commission has submitted the Declaratory Resolution and the Plan to the Plan Commission for approval pursuant to the provisions of Section 16 of the Act, which Declaratory Resolution and Plan are attached hereto collectively as Exhibit A and made a part hereof; and

WHEREAS, in determining the location and extent of the Economic Development Area, the Plan Commission has determined that no residents of the City will be displaced by the proposed development thereof; and

WHEREAS, the Plan Commission has reviewed the Declaratory Resolution and the Plan and determined that they conform to the plan of development for the City, and now desires to approve the Declaratory Resolution and the Plan; and

WHEREAS, after being fully advised in the matter,

**NOW, THEREFORE, BE IT ORDERED BY THE
WESTFIELD-WASHINGTON PLAN COMMISSION, AS FOLLOWS:**

SECTION I. The Plan Commission hereby finds and determines that the Declaratory Resolution and the Plan for the Economic Development Area conform to the Comprehensive Plan of development for the City.

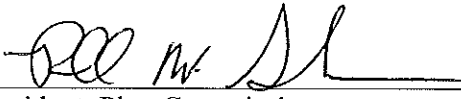
SECTION II. The Declaratory Resolution, the Area and the Plan for the Economic Development Area are hereby approved.

SECTION III. This resolution hereby constitutes the written order of the Plan Commission approving the Declaratory Resolution and the Plan for the Economic Development Area pursuant to Section 16 of the Act.

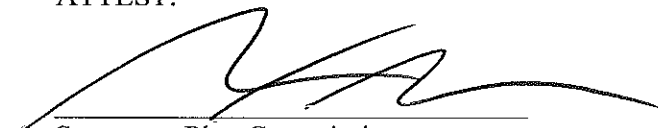
SECTION IV. The Secretary of the Plan Commission is hereby directed to file a copy of the Declaratory Resolution and the Plan for the Economic Development Area with the minutes of this meeting.

[Remainder of page intentionally left blank.]

PASSED THIS 5TH DAY OF JANUARY, 2015, BY THE
WESTFIELD-WASHINGTON TOWNSHIP PLAN COMMISSION,
HAMILTON COUNTY, INDIANA.



President, Plan Commission

ATTEST:


Secretary, Plan Commission

KD_6881334_1.DOC

EXHIBIT A

**WESTFIELD REDEVELOPMENT COMMISSION
DECLARATORY RESOLUTION NO. 6-2014
INCLUDING GIGABIT BROADBAND ECONOMIC DEVELOPMENT PLAN –
ECONOMIC DEVELOPMENT AREA INCLUDING FINDINGS OF FACT**

**WESTFIELD REDEVELOPMENT COMMISSION
DECLARATORY RESOLUTION NO. 6-2014**

**RESOLUTION OF THE CITY OF WESTFIELD REDEVELOPMENT COMMISSION
DECLARING AN AREA IN THE CITY OF WESTFIELD AS
AN ECONOMIC DEVELOPMENT AREA AND
APPROVING AN ECONOMIC DEVELOPMENT PLAN FOR SAID AREA**

WHEREAS, the City of Westfield, Indiana (the "City"), desires to undertake an economic development project that will assist the City in a project by Metro FiberNet, LLC, or its subsidiaries, affiliates, successors or assigns, to construct facilities to house electronics and to install fiber optic cable that will provide high speed internet, telephone and television services for the City (collectively, the "Metro FiberNet Project"); and

WHEREAS, the City of Westfield Redevelopment Commission (the "Commission"), governing body of the City of Westfield Department of Redevelopment (the "Department"), pursuant to Indiana Code 36-7-14, as amended (the "Act"), has thoroughly studied an area of the City, which area consists of the possible locations throughout the City of all depreciable personal property consisting of the actual space where new fiber optic cable will be laid due to the Metro FiberNet Project in the City, with such areas designated as the "Gigabit Broadband Allocation Area," which area is also an economic development area (the "Economic Development Area"); and

WHEREAS, there has been presented to this meeting for consideration and approval of the Commission a development plan (the "Plan") for the Economic Development Area and entitled "Gigabit Broadband Economic Development Plan—Economic Development Area" which Plan is attached hereto and incorporated herein by reference as Exhibit A; and

WHEREAS, to the extent relevant to the Metro FiberNet Project, the Commission has caused to be prepared maps and plats showing the boundaries of the Economic Development Area, the location of various parcels of property, streets, alleys, and other features affecting the replatting, replanning, rezoning, or redevelopment of the Economic Development Area, and the parts of the Economic Development Area that are to be devoted to public ways, sewerage and other public purposes under the Plan; and

WHEREAS, the Commission has caused to be prepared estimates of the costs of the development projects as set forth in the Plan; and

WHEREAS, the Plan and supporting data were reviewed and considered at this meeting; and

WHEREAS, Section 39 of the Act has been created and amended to permit the creation of "allocation areas" to provide for the allocation and distribution of property taxes for the purposes and in the manner provided in said section; and

WHEREAS, Sections 41 and 43 of the Act have been created to permit the creation of “economic development areas” and to provide that all of the rights, powers, privileges and immunities that may be exercised by this Commission in a redevelopment area or urban renewal area may be exercised in an economic development area, subject to the conditions set forth in the Act; and

WHEREAS, the Commission deems it advisable to apply the provisions of said Sections 39, 41, and 43 of the Act to the Plan and financing of the Plan.

NOW, THEREFORE, BE IT RESOLVED by the City of Westfield Redevelopment Commission, governing body of the City of Westfield Department of Redevelopment, as follows:

1. The Plan for the Economic Development Area promotes significant opportunities for the gainful employment of its citizens and meets other purposes of Sections 2.5, 41 and 43 of the Act, including without limitation benefiting public health, safety and welfare, increasing the economic well-being of the City and the State of Indiana (the “State”), and serving to protect and increase property values in the City and the State.

2. The Plan for the Economic Development Area cannot be achieved by regulatory processes or by the ordinary operation of private enterprise without resort to the powers allowed under Sections 2.5, 41 and 43 of the Act because of lack of local public improvements, including without limitation the cost of the projects contemplated by the Plan.

3. The public health and welfare will be benefited by accomplishment of the Plan for the Economic Development Area.

4. The accomplishment of the Plan for the Economic Development Area will be a public utility and benefit as measured by the attraction or retention of permanent jobs, an increase in the property tax base, improved diversity of the economic base and other similar public benefits.

5. The Plan for the Economic Development Area conforms to other development and redevelopment plans for the City.

6. The Commission pursuant to the requirements of Section 39(b) of the Act, after examining the Plan including the Findings of Fact contained therein attached hereto as Exhibit A, and taking testimony, further finds that the adoption of the allocation provisions of the Act will result in new property taxes in the Allocation Area (as hereinafter defined) that would not have been generated but for the adoption of the allocation provisions.

7. In support of the findings and determinations set forth in Sections 1 through 5 above, the Commission hereby adopts the specific findings set forth in the Plan.

8. The Plan does not recommend any specific property acquisition and the Department does not at this time propose to acquire any specific parcel of land or interests in land within the boundaries of the Economic Development Area. At the time the Department proposes to acquire specific parcels of land, the required procedures for amending the Plan under

the Act will be followed, including notice by publication and to affected property owners and a public hearing.

9. The Commission finds that no residents of the Economic Development Area will be displaced by any project resulting from the Plan, and therefore finds that it does not need to give consideration to transitional and permanent provisions for adequate housing for the residents.

10. The Plan is hereby in all respects approved, and the secretary of the Commission is hereby directed to file a certified copy of the Plan with the minutes of this meeting. The Economic Development Area is hereby designated as an “economic development area” under Section 41 of the Act.

11. The entire Economic Development Area is hereby designated as an “allocation area” pursuant to Section 39 of the Act for purposes of the allocation and distribution of property taxes for the purposes and in the manner provided by said Section. Any real property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in said allocation area shall be allocated and distributed as follows:

Except as otherwise provided in said Section 39, the proceeds of taxes attributable to the lesser of the assessed value of the property for the assessment date with respect to which the allocation and distribution is made, or the base assessed value, shall be allocated to and when collected paid into the funds of the respective taxing units. Except as otherwise provided in said Section 39, property tax proceeds in excess of those described in the previous sentence shall be allocated to the redevelopment district and when collected paid into an allocation fund for said allocation area that may be used by the redevelopment district to do one or more of the things specified in Section 39(b)(3) of the Act, as the same may be amended from time to time. Said allocation fund may not be used for operating expenses of the Commission. Except as otherwise provided in the Act, before July 15 of each year, the Commission shall take the actions set forth in Section 39(b)(4) of the Act.

12. The foregoing allocation provision shall apply to all of the Economic Development Area and shall expire on the date that is twenty-five (25) years after the date on which the first obligation is incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues. The base assessment date for the allocation area shall be March 1, 2014.

13. Said allocation area is hereby designated as the “Gigabit Broadband Allocation Area,” and said allocation fund is hereby designated as the “Gigabit Broadband Allocation Fund.”

14. Pursuant to Section 39.3 of the Act, the Commission designates as a “designated taxpayer” Metro FiberNet, LLC and its successors or assigns or any affiliate of Metro FiberNet, LLC and its successors or assigns (the “Designated Taxpayer”).

15. The Commission hereby modifies the definition of property taxes in IC 36-7-14-39(a) for the purposes of including taxes imposed under IC 6-1.1 on the depreciable personal property of the designated taxpayer described above and all other depreciable property located

and taxable on the designated taxpayer's site of operations in the Allocation Area. This allocation provision shall expire on the date that is twenty-five (25) years after the date on which the first obligation is incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues.

16. The Commission finds that:

(a) The taxes to be derived from the Designated Taxpayer's depreciable personal property in the allocation area and all other depreciable property located and taxable on the designated taxpayer's site of operations within the allocation area in excess of the taxes attributable to the base assessed value of that personal property, are needed to pay debt service on bonds issued under IC 36-7-14-25.1, or to make payments or to provide security on leases payable under IC 36-7-14-25.2, in order to provide local public improvements for the particular allocation area;

(b) The taxpayer's property in the allocation area consists primarily of industrial, manufacturing, warehousing, research and development, processing, distribution, or transportation related projects; and

(c) The taxpayer's property in the allocation area does not consist primarily of retail, commercial or residential projects.

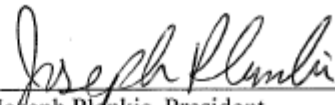
17. The officers of the Commission are hereby directed to make any and all required filings with the Indiana Department of Local Government Finance and the Hamilton County Auditor in connection with the creation of the allocation area.

18. The provisions of this Resolution shall be subject in all respects to the Act and any amendments thereto.

19. This Resolution, together with any supporting data and together with the Plan, shall be submitted to the Westfield-Washington Advisory Plan Commission (the "Plan Commission") and the Common Council of the City of Westfield (the "Common Council") as provided in the Act, and if approved by the Plan Commission and the Common Council, shall be submitted to a public hearing and remonstrance as provided by the Act, after public notice as required by the Act.

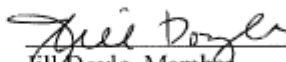
[Remainder of page intentionally left blank.]

ADOPTED AND PASSED THIS 15th DAY OF DECEMBER, 2014,
BY A VOTE OF 4 IN FAVOR AND 0 OPPOSED, BY THE
WESTFIELD REDEVELOPMENT COMMISSION, HAMILTON COUNTY, INDIANA.

By: 
Joseph Plankis, President

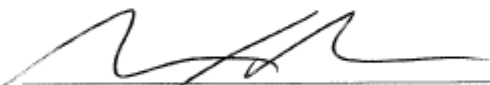
By: 
Joseph E. Ingalls, Vice President

By: _____
Scott Robison, Secretary

By: 
Jill Doyle, Member

By: 
Doug Holz, Member

ATTEST:


Matthew S. Skelton, Esq.

This resolution prepared by:

James T. Crawford, Jr., Esq.
Krieg DeVault LLP
12800 North Meridian Street, Suite 300
Carmel, IN 46032
317.238.6239

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. /s/ James T. Crawford, Jr.

KD_6850849_4.docx

EXHIBIT A

**GIGABIT BROADBAND ECONOMIC DEVELOPMENT PLAN –
ECONOMIC DEVELOPMENT AREA
INCLUDING FINDINGS OF FACT**

CITY OF WESTFIELD, INDIANA

Gigabit Broadband Economic Development Area

Economic Development Plan

TABLE OF CONTENTS

REQUIRED FINDING OF FACTS TO SUPPORT THE STATUTORY REQUIREMENTS.....	2
FACTS.....	2
CITY OF WESTFIELD REDEVELOPMENT COMMISSION	3
THE PROCESS OF DESIGNATING AN ECONOMIC DEVELOPMENT AREA	5
EXAMPLES OF HOW THE CITY INTENDS TO MEET THE STATUTORY FINDINGS	6
FACTUAL REPORT IN SUPPORT OF FINDINGS CONTAINED IN RESOLUTION NO. 6-2014.....	8

**REQUIRED FINDING OF FACTS TO
SUPPORT THE STATUTORY REQUIREMENTS**

FACTS

1. The Economic Development Plan (the "Plan") promotes significant opportunities for gainful employment of its citizens, attracts new major business enterprises to the City of Westfield, Indiana (the "City"), retains and expands significant business enterprises existing in the boundaries of the City, and meets other statutory purposes, as set forth in Indiana Code Sections 36-7-14-2.5 and 36-7-14-43.
2. The Plan for the Gigabit Broadband Economic Development Area (the "EDA") cannot happen by regulatory process or by the ordinary operation of private enterprise because of the lack of public infrastructure or other similar conditions thereby necessitating the establishing of an allocation area to assist in the funding of the required infrastructure.
3. The public health and welfare will benefit by the accomplishment of the Plan for the EDA.
4. The achievement of the Plan for the EDA will constitute a public utility and will benefit as measured by the attraction or retention of permanent jobs, an increase in the property values, thus equating to increased assessed value (which herein is defined as "assessed value"), improved diversity of the economic base through the enhanced mix of property and other public benefits and the expansion of technology and high speed internet services to a significant portion of the City, which is in direct alignment with the goals of the City.
5. The Plan for the EDA conforms to other development and redevelopment plans for the City.
6. A representative of Metro FiberNet, LLC testified at the December 15, 2014 Redevelopment Commission meeting that building out a fiber optic system such as the one being proposed for the Metro FiberNet Project is extremely capital intensive and Metro FiberNet, LLC would not undertake the Project without the establishment of the Allocation Area and the resultant availability of TIF increment to assist with the cost of building out the Project.

ECONOMIC DEVELOPMENT PLAN
GIGABIT BROADBAND ECONOMIC DEVELOPMENT AREA
CITY OF WESTFIELD REDEVELOPMENT COMMISSION
FOR THE
CITY OF WESTFIELD

Purpose

This document is the City Economic Development Plan (the “Plan”) for the Gigabit Broadband Economic Development Area (the “EDA”) contained within the City. This document is intended to be approved by the Westfield City Plan Commission, the Westfield City Council and the City of Westfield Redevelopment Commission in conformance with IC-37-14.

Introduction

The Westfield area economic base was developed for the home of corporate headquarters, back office operations, high tech manufacturing, distribution operations, youth sports industry, logistics, technology driven businesses and high quality living. The Westfield area is where the talent lives and works. The area has a well-diversified base of employers headed by IMMI (550), Standard Locknut (167), Porter Engineer Systems (145) and Custom Concrete (136). Hamilton County is the largest suburban employment and residential hub in Central Indiana. The unemployment rate has remained lower than state and national rates throughout the recession. The current employment in Hamilton County is approximately 112,000.

Westfield was founded in 1834 and was incorporated as a town in 1848. In 2008, Westfield was incorporated as a city and its population is about 32,000 (2012). While Westfield has experienced rapid population growth since 1990, in recent years, it has suffered from a significant slowdown in its economy. New business growth, housing permits and new home starts stalled and city revenue growth was flat for several years. During the slowdown, Westfield constructed a \$45 million outdoor portion of the 400 acre Grand Park and is recruiting quality shops, restaurants, hotels, businesses and other commercial development to increase and diversify its tax base. The City Council has recently approved a \$25 million plan for the private/public development of an indoor facility at Grand Park. The indoor arena will bring year-round activity to Grand Park that will foster economic development and grow the tax base. Also, to foster quality growth, Westfield has embarked on major downtown revitalization projects. Stakeholders continue to expect and demand high quality infrastructure, community services,

education, businesses, jobs, housing and technology investments to meet their quality of life expectations in Westfield.

To remain competitive and continue to move forward in achieving its goal for Westfield to be a destination and grow its tax base, the need for sufficient bandwidth and high speed telecommunications is essential. The Google like fiber Gigabit City project proposed by Metro FiberNet, LLC to bring Gigabit services to the premise will provide Westfield 21st century communications infrastructure that will facilitate the efforts to enhance the opportunities for the existing workforce and businesses, as well as assist in the attraction of new enterprises and enhance the overall quality of life. .

Description of the Area

The Area is located within the boundaries of Westfield. (See Appendix A for the detailed maps of the Area. Yellow lines represent projected locations of Metro FiberNet overhead infrastructure and blue lines represent projected locations of Metro FiberNet underground infrastructure.) It is the intention of this Plan to create an allocation area within the Area that consists solely of all of the personal property of Metro FiberNet, which personal property consists of fiber optic cable and associated fiber equipment that will be placed either on poles or underground, depending upon where the existing utilities lay. The allocation area will, by definition, be where the personal property of Metro FiberNet exists, and can move when the fiber optic cable is moved. The designation of the Area is to delineate where the fiber optic cable and associated fiber equipment may be located, but is not in and of itself the allocation area.

Project Description

Metro FiberNet Potential Project List Within TIF Area / EDA

..... The personal property to be captured as the allocation area will consist of:

1. New fiber optic cable and associated fiber equipment installed by Metro FiberNet ;
2. Pre-cast concrete equipment storage building and fiber cabinets that are classified as personal property in locations to be determined; and
3. Electronic and optical equipment within the equipment storage building and cabinets.

THE PROCESS OF DESIGNATING AN ECONOMIC DEVELOPMENT AREA

The following represents a general narrative summary of the sequence of actions to be undertaken in support of the designation of the EDA. Each step will be reviewed by the legal staff of the City of Westfield, by Bond Counsel and the Financial Advisor.

After formation of the Plan, it will be submitted to the Redevelopment Commission of the City of Westfield for consideration and approval. Upon presentation and discussion, the Redevelopment Commission may approve the Plan in its entirety, make modifications to the Plan and approve the Plan as amended, or reject the Plan and the designation of an EDA.

Declaratory Resolution

If the Redevelopment Commission desires to approve the Plan, it will pass a Declaratory Resolution of the Redevelopment Commission. The Declaratory Resolution declares the intent of the Redevelopment Commission to create an EDA.

Plan Commission Review

After passing the Declaratory Resolution, the Redevelopment Commission must then submit the Plan to the City of Westfield Plan Commission for review to assure that it conforms to the plan of development for the City. The Plan Commission's task is to affirm that the Plan conforms to the plan of development of each jurisdiction as contained in the Comprehensive Plan. The Plan can propose an alteration of land use or zoning to any of the jurisdictions in response to a specific economic development proposal, but if it does so, such alteration or rezoning must be approved by the Plan Commission. This Plan was developed in compliance with the current Comprehensive Plan and no deviation is anticipated.

City Council Approval

Upon receiving approvals of the Redevelopment Commission and the Plan Commission, the Plan must be submitted to the City of Westfield Common Council for approval before it can be implemented. The City Council may reject the Plan or approve the Plan. The City Council also must approve the Redevelopment Commission's determination that the Area is an economic development area under the redevelopment statute.

Notice of Public Hearing and Tax Impact Statement

Upon receipt of approval by the City Council, the Redevelopment Commission must publish a notice of the adoption of the Declaratory Resolution and the date upon which the Redevelopment Commission will conduct a public hearing thereon, which must be no sooner than 10 days following the publication of the notice. The Redevelopment Commission also must deliver a copy of the notice, along with a statement disclosing the impact of the Area, to each taxing unit that is wholly or partially located in the Area.

Confirmatory Resolution

The Redevelopment Commission must then conduct the public hearing and pass a Confirmatory Resolution which confirms the Redevelopment Commission's intention to designate the EDA as set forth in the Plan. The Redevelopment Commission is not required to take this action, but may consider whether the Area designation is still appropriate. If the Redevelopment Commission passes the Confirmatory Resolution, the EDA is then finally declared and designated.

Bond Counsel for the project will assure that all necessary and appropriate filings and administrative actions are taken. It is, therefore, important that the various agencies, bodies, elected officials and the general public understand the limitations which are imposed on subsequent decision and actions by these various agencies and bodies.

**EXAMPLES OF HOW THE CITY INTENDS TO MEET
THE
STATUTORY FINDINGS**

Metro FiberNet

The fiber optic system planned by Metro FiberNet (and its affiliated companies including, but not limited to, Metro FiberNet, LLC) will enhance economic development and improve the overall financial health of Westfield by enhancing efforts to expand and diversify the economy by attracting 21st century businesses which rely upon technology and require sufficient bandwidth in order to locate in Westfield. Also, it will directly create 8 to 10 jobs with an annual payroll of approximately \$ 400,000 to \$500,000 within the Westfield Area.

It is crucial to the long term fiscal health and quality of life of Westfield that we are positioned to attract these technology driven businesses especially those in logistics, advanced manufacturing, technology centers, corporate and back office operations. The local workforce is trained in these vocations and additional training will improve skill levels to a degree commensurate with those required in the aforementioned industries.

Financing the Projects

It is the intention of the Redevelopment Commission to create a Tax Incremental Finance ("TIF") District and to capture the incremental depreciable personal property within the EDA in order to finance the necessary projects. The TIF District must be established by March 1, 2015 so that the Redevelopment Commission may receive funds in 2015. If this does not occur, the already formed Redevelopment Commission will not be able to meet the needs that are projected to occur shortly.

It will be necessary to issue bonds sometime in the near future, based on the incremental *ad valorem* property taxes allocated under IC 36-7-14-39, in order to raise money for completion of the Projects in the Area.

The financing will be used for part, or all, of the following:

- (1) All reasonable and necessary architectural, engineering, and construction, equipment, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and development of the Project or the issuance of bonds;
- (2) Interest on, and principal of, the bonds issued by the Commission for the project; and
- (3) Expenses that the Commission is required or permitted to pay under IC 8-23-17.

Metro FiberNet has estimated the total cost of their project within the City of Westfield will about \$10 to \$15 million.

Based upon the estimated investment of depreciable personal property to be located within the various taxing districts, Metro FiberNet, LLC would be requesting assistance through the issuance of TIF Revenue Bonds by the City Westfield in an estimated aggregate amount not to exceed \$2 million with a term not to exceed 25 years. The Bonds, when issued, would be paid solely from the incremental revenues generated within the Area and would not cause a general or moral obligation on the part of the Redevelopment Commission or the City.

Amendment of the Plan

By following the procedures specified in IC 36-7-14-15 the Redevelopment Commission may amend the Plan for the Area.

**FACTUAL REPORT IN SUPPORT OF FINDINGS
CONTAINED IN RESOLUTION NO. 6-2014**

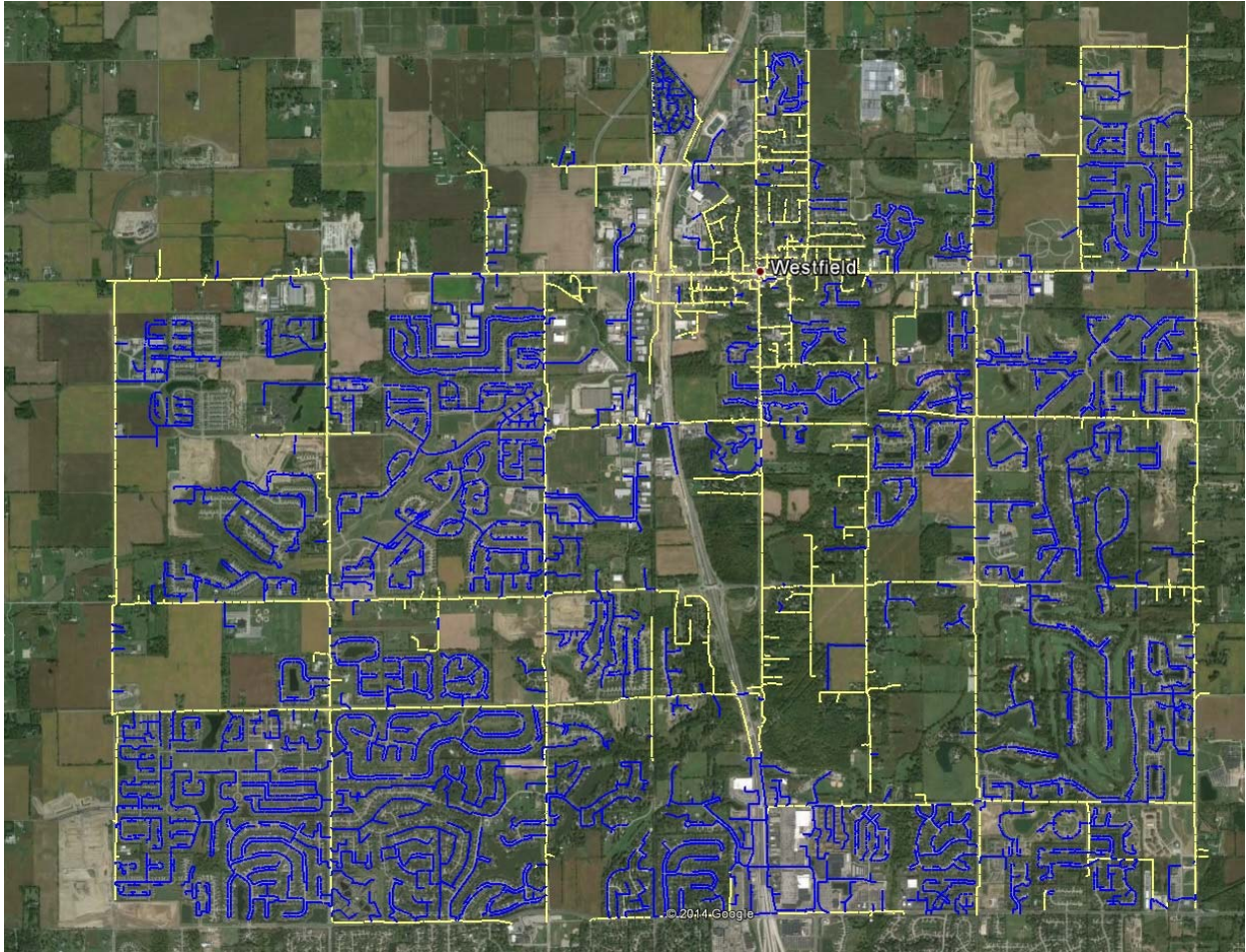
1. The Plan for the Gigabit Broadband Economic Development Area (the "Area") will promote significant opportunities for growth and the gainful employment of citizens of the City by providing the means to extend state of the art fiber optic lines and high speed internet services to the Area. This 21st century infrastructure is necessary to attract employers engaged in quality high technology operations, back office, corporate offices, corporate headquarters, sports related industries, logistics, hotels and residential development. This infrastructure will improve Westfield's ability to attract employers as follows:
 - A. To locate in the Area, entities require sites that are shovel ready with all required infrastructure, including Gigabit broadband services. This Plan provides for the public funding of the fiber optic lines and electronic equipment required to bring high speed (Gigabit) internet services throughout the Area.
 - B. The Plan provides for these services to be brought to publicly owned sites that are developed or will be developed as shovel ready sites suitable for development by entities that are engaged in logistics, back office operations, corporate offices, high technology, health care and quality living.
2. The Plan:
 - A. Will promote significant opportunities for the gainful and quality employment of the citizens of the City;
 - B. Is likely to attract major new business and home grown enterprises as a result of the existence of fiber optic broadband services (with Gigabit services to the home);
 - C. Enables the use of public funding to guide infrastructure design and construction and thus development in the Area to promote basic employment and mixed uses of the land, to an extent individual property owners would not otherwise attain.
 - D. Benefits the public health, safety, morals and welfare of the citizens of Westfield, the County and State as follows: The Plan, when fully implemented, will add high speed (Gigabit) broadband services that are required in the transmission of medical records. Development of this 21st century infrastructure will permit the City to approach land use development, public services, resources and public investments in a positive manner; and

- E. Increases the economic well being of the City and the State of Indiana in direct alignment with elected officials, at every level of government, and local stakeholders public statements of promoting economic development opportunity in Indiana through the extension of 21st century broadband services throughout the state.
- 3. The planning and development of the Area will benefit the public health, safety morals and welfare; it will increase the economic well being of the City and serve to protect and increase property values in both the City and the State of Indiana.
 - A. The Plan will create new employment opportunities;
 - B. The Plan will diversify the local economy and add employment opportunities that do not now exist and cannot exist without the addition of 21st century Gigabit broadband; and
 - C. Fiber optic Gigabit broadband services are not available in vacant land within the Area. The Plan promotes development throughout the Area.
- 4. The Plan for the Area cannot be achieved by the regulatory processes or by ordinary operation of private enterprise without resorting to IC 36-7-14 (the Redevelopment statutes) because of the lack of public improvements, the existence of geological impediments to industrial development and multiple ownership of land.
- 5. The accomplishment of the Plan for the Area will be of public utility benefit, for the following reasons. First, it is estimated that the full development of the Area, pursuant to the Plan will allow for the immediate attraction of approximately 8 to 10 permanent high tech jobs in the Westfield Area by January 2016. The foregoing estimate is based upon representation of Metro FiberNet, LLC. Secondly, current employers in Westfield have indicated a need for updated fiber optic Gigabit broadband services to transmit engineering, medical records, graphics, books and technical information. The expectation is that hundreds of local jobs will be preserved, retained and attracted as a result of implementation of the Plan. This information has been developed through discussions with a number of community stakeholders. It is also estimated that, when fully developed in accordance with the Plan, the assessed value for Depreciable Personal Property will be increased by approximately \$15 million within the Westfield Area. The foregoing estimate is based upon representations of Metro FiberNet, LLC.
- 6. The Commission believes that the TIF District will generate, over time, along with federal, state and local funds, sufficient monies to fully implement the Plan.

7. Metro FiberNet, LLC has represented to the City that building out a fiber optic system such as the one being proposed for the Metro FiberNet Project is extremely capital intensive and Metro FiberNet, LLC would not undertake the Project without the establishment of the Allocation Area and the resultant availability of TIF increment to assist with the cost of building out the Project.

APPENDIX A

PROJECTED LOCATIONS OF THE METRONET INFRASTRUCTURE



Yellow lines represent projected locations of Metro FiberNet overhead infrastructure and blue lines represent projected locations of Metro FiberNet underground infrastructure.

I hereby certify that each of the above listed vouchers and invoices, or bills attached there to, are true and correct and I have audited same in accordance with IC5-11-10-1.6.

January 12, 2015

Fiscal Officer

ALLOWANCE OF ACCOUNTS PAYABLE VOUCHERS
--

CITY OF WESTFIELD

We have examined the Accounts Payable Vouchers listed on the foregoing Register of Accounts Payable Vouchers consisting of 12 pages and except for accounts payables not allowed as shown on the Register such account payables are hereby allowed in the total amount of \$0 and pending director approval such accounts payables are hereby allowed in the total amount of \$0.

Dated this 12 day of January, 2015

_____	_____	_____
_____	_____	_____
_____	_____	_____

Signatures of Governing Board

Approved by State Board of Accounts for the City of Westfield, 2013

Purchase Invoice Register

City of Westfield

Report Date Range: 12/22/14..01/09/15

1/9/2015 10:00 AM

Page 1 of 12

WESTFIELD\kgagnon

Buy-From Vendor No.	Buy-From Vendor Name	Invoice No.	Date	G/L Acct.	G/L Account Name	Description	Amount	Check No.	Check Date
Fund No. Fund Name									
101	General								
Administration									
VEN001537	Payroll	APP022996	1/5/2015	101001111	ADM-SALARY	sal	63,178.27	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101001119	ADM-HEALTH AND DENTAL	hsa	17,750.00	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101001120	ADM-FICA AND MEDICARE	fica	3,744.15	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101001120	ADM-FICA AND MEDICARE	med	875.63	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101001121	ADM-PERF	perf	8,326.01	102010115	1/6/2015
VEN000513	DavisVision	APP023029	1/6/2015	101001119	ADM-HEALTH AND DENTAL	ins	168.38	55774	1/6/2015
VEN000589	Duke Energy	APP023036	1/6/2015	101001341	ADM-ELECTRICITY	Clinic House	267.06		
VEN000589	Duke Energy	APP023036	1/6/2015	101001341	ADM-ELECTRICITY	DWNA	44.78		
Subtotal for Administration							94,354.28		

Purchase Invoice Register

City of Westfield

Report Date Range: 12/22/14..01/09/15

1/9/2015 10:00 AM

Page 2 of 12

WESTFIELD\kgagnon

Buy-From Vendor No.	Buy-From Vendor Name	Invoice No.	Date	G/L Acct.	G/L Account Name	Description	Amount	Check No.	Check Date
Fund No. Fund Name									
101 General									
Police									
VEN001537	Payroll	APP022996	1/5/2015	101002111	POLICE-SALARY	sal	118,027.94	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101002119	POLICE-HEALTH AND DENT	hsa	23,250.00	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101002120	POLICE-FICA AND MEDICAR	fica	7,048.48	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101002120	POLICE-FICA AND MEDICAR	med	1,648.47	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101002121	POLICE-PERF	perf	18,824.18	102010115	1/6/2015
VEN000513	DavisVision	APP023029	1/6/2015	101002119	POLICE-HEALTH AND DENT	ins	438.12	55774	1/6/2015
VEN000235	BGI FITNESS	APP023046	1/6/2015	101002343	POLICE-BUILDING MAINTEN		75.00		
VEN002336	Citizens Westfield	APP023058	1/6/2015	101002328	POLICE-HEAT/GAS		261.96		
VEN001808	Song Kang	APP023066	1/6/2015	101002334	POLICE-TRAVEL/TRAINING/	Reimbursement for food durin	151.44		
VEN000314	C.A.R. Clinic	APP023067	1/6/2015	101002360	POLICE-VEHICLE REPAIR	Vehicle Repairs	3,819.58		
VEN000747	Galls	APP023068	1/6/2015	101002229	POLICE-UNIFORMS	Ballcaps and Watch Caps	49.74		
VEN000747	Galls	APP023068	1/6/2015	101002229	POLICE-UNIFORMS	Ballcaps and Watch Caps	16.58		
VEN000747	Galls	APP023068	1/6/2015	101002229	POLICE-UNIFORMS	Ballcaps and Watch Caps	16.58		
VEN000747	Galls	APP023068	1/6/2015	101002229	POLICE-UNIFORMS	Ballcaps and Watch Caps	99.48		
VEN000747	Galls	APP023068	1/6/2015	101002229	POLICE-UNIFORMS	Ballcaps and Watch Caps	16.58		
VEN000747	Galls	APP023068	1/6/2015	101002229	POLICE-UNIFORMS	Ballcaps and Watch Caps	16.58		
VEN000747	Galls	APP023068	1/6/2015	101002229	POLICE-UNIFORMS	Ballcaps and Watch Caps	16.58		
VEN001020	Institute of Police Technology and Manag	APP023069	1/6/2015	101002334	POLICE-TRAVEL/TRAINING/	At-Scene Traffic Crash/Traffic	850.00		
VEN000976	Indiana Paging Network	APP023070	1/6/2015	101002332	POLICE-CELL/PAGERS/MOBI	Monthly Statement - Feb	79.73		
VEN001154	Kahlo Jeep	APP023071	1/6/2015	101002360	POLICE-VEHICLE REPAIR	Mirror - Outside rearview	104.00		
VEN000312	Busy Bee Cleaning Service	APP023072	1/6/2015	101002343	POLICE-BUILDING MAINTEN	Janitorial - Dec	672.00		
VEN002017	Unifirst Corporation	APP023073	1/6/2015	101002343	POLICE-BUILDING MAINTEN	Mat Rental	37.75		
VEN002017	Unifirst Corporation	APP023073	1/6/2015	101002343	POLICE-BUILDING MAINTEN	Mat Rental	37.75		
VEN001856	Sun Badge Co.	APP023074	1/6/2015	101002229	POLICE-UNIFORMS	Badge Repairs and Changes	135.00		
VEN000434	Comcast Cable	APP023075	1/6/2015	101002349	POLICE-SERVICES	Comcast Cable - Jan	68.24		
VEN001614	Public Safety Center	APP023076	1/6/2015	101002472	POLICE-EQUIP	2 Eagle Eye Personal DVR C	353.22		
VEN002028	UPS	APP023077	1/6/2015	101002333	POLICE-POSTAGE	UPS Shipping Charges	32.45		
VEN002336	Citizens Westfield	APP023078	1/6/2015	101002342	POLICE-WATER/SEWER	Fire Line Charges	82.18		
VEN001035	Interstate Battery	APP023086	1/6/2015	101002360	POLICE-VEHICLE REPAIR		428.85		
VEN000733	Freije Engineered Solutions Co	APP023122	1/9/2015	101002343	POLICE-BUILDING MAINTEN		1,475.32		
Subtotal for Police							178,133.78		

Purchase Invoice Register

City of Westfield

Report Date Range: 12/22/14..01/09/15

1/9/2015 10:00 AM

Page 3 of 12

WESTFIELD\kgagnon

Buy-From Vendor No.	Buy-From Vendor Name	Invoice No.	Date	G/L Acct.	G/L Account Name	Description	Amount	Check No.	Check Date
Fund No. Fund Name									
101	General								
Economic and Community Development									
VEN001537	Payroll	APP022996	1/5/2015	101003111	ECD-SALARY	sal	23,604.60	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101003119	ECD-HEALTH AND DENTAL	hsa	4,750.00	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101003120	ECD-FICA AND MEDICARE	fica	1,420.10	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101003120	ECD-FICA AND MEDICARE	med	332.13	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101003121	ECD-PERF	perf	3,351.86	102010115	1/6/2015
VEN000513	DavisVision	APP023029	1/6/2015	101003119	ECD-HEALTH AND DENTAL	ins	52.26	55774	1/6/2015
VEN000203	BD Managed Services LLC	APP023065	1/7/2015	101003223	ECD-OFFICE SUPPLIES	Basement build out	770.92		
VEN001105	Jennifer Miller	APP023080	1/6/2015	101003338	ECD-LEGAL	HC Auditor and service fee	54.00		
Subtotal for Economic and Community Development							34,335.87		
ECD - Building									
VEN000513	DavisVision	APP023029	1/6/2015	101004119	BLDG-HEALTH AND DENTA	ins	29.56	55774	1/6/2015
Subtotal for ECD - Building							29.56		
Parks									
VEN000905	Hoosier Portable Restroom	APP022940	12/22/2014	101005347	PARKS-PROMOTION	WR4	3,400.00	55688	12/29/2014
VEN000381	Cherry Street Plaza LLC	APP022965	12/26/2014	101005366	PARKS-BUILDING LEASE	Monthly rent for 330 Main St A	1,582.77	101122914	12/29/2014
VEN000381	Cherry Street Plaza LLC	APP022965	12/26/2014	101005366	PARKS-BUILDING LEASE	Increase effective 3/1/14	47.58	101122914	12/29/2014
VEN001537	Payroll	APP022996	1/5/2015	101005111	PARKS-SALARY	sal	11,849.64	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101005119	PARKS-HEALTH AND DENT	hsa	2,750.00	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101005120	PARKS-FICA AND MEDICAR	fica	710.07	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101005120	PARKS-FICA AND MEDICAR	med	166.07	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101005121	PARKS-PERF	perf	1,682.65	102010115	1/6/2015
VEN000513	DavisVision	APP023029	1/6/2015	101005119	PARKS-HEALTH AND DENT	ins	15.84	55774	1/6/2015
VEN000589	Duke Energy	APP023037	1/6/2015	101005341	PARKS-ELECTRIC	17415 Oak Ridge	14.50		
VEN000589	Duke Energy	APP023037	1/6/2015	101005341	PARKS-ELECTRIC	Midland Bridge	18.54		
VEN000312	Busy Bee Cleaning Service	APP023081	1/6/2015	101005343	PARKS-BUILDING MAINTEN	Office cleaning at 330 and 34	195.00		
VEN001367	Midwest Toxicology Servic	APP023130	1/7/2015	101005349	PARKS-SERVICES	New employee testing	50.00		
Subtotal for Parks							22,482.66		

Purchase Invoice Register

City of Westfield

Report Date Range: 12/22/14..01/09/15

1/9/2015 10:00 AM

Page 4 of 12

WESTFIELD\kgagnon

Buy-From Vendor No.	Buy-From Vendor Name	Invoice No.	Date	G/L Acct.	G/L Account Name	Description	Amount	Check No.	Check Date
Fund No. Fund Name									
101 General									
Informatics									
VEN003221	Jennifer Gagan	APP022978	12/29/2014	101007347	IT-PROMOTION	Plaque reimbursement	210.00	55771	12/30/2014
VEN000513	DavisVision	APP023029	1/6/2015	101007119	IT-HEALTH AND DENTAL	ins	65.98	55774	1/6/2015
VEN000561	DLT Solutions	APP023118	1/7/2015	101007389	IT-SOFTWARE LICENSING		3,367.77		
VEN002044	Van Ausdall and Farrar	APP023124	1/6/2015	101007337	IT-PRINTING	Click charges for December	608.59		
VEN000348	CDW Government Inc	APP023125	1/6/2015	101007451	IT-COMPUTER/EQUIP	Dec invoices for computer eq	7,006.85		
VEN000942	Imagery LLC	APP023126	1/6/2015	101007347	IT-PROMOTION	Apparel	1,446.28		
VEN000616	Egov Strategies	APP023127	1/5/2015	101007389	IT-SOFTWARE LICENSING	Annual license support maint	7,636.20		
VEN001949	Think Tank Software Development	APP023128	1/9/2015	101007389	IT-SOFTWARE LICENSING	2015 renewal	1,218.24		
VEN000348	CDW Government Inc	APP023129	1/9/2015	101007337	IT-PRINTING	CD scanner	756.23		
VEN000345	Cave and Company Printing	APP023131	1/9/2015	101007347	IT-PROMOTION	Strength Posters	93.87		
VEN002012	U.S. Bank Equipment Finance	APP023132	1/7/2015	101007337	IT-PRINTING	Training Facility	87.72		
VEN000053	Adxstudio Inc	APP023137	1/8/2015	101007331	IT-CONSULTING	Colin Vermander	400.00		
Subtotal for Informatics							22,897.73		
Clerk Treasurer									
VEN001537	Payroll	APP023011	1/5/2015	101008331	CT-CONSULTING	Processing charges for period	809.92	102010515	1/5/2015
VEN000513	DavisVision	APP023029	1/6/2015	101008119	CT-HEALTH AND DENTAL	ins	65.98	55774	1/6/2015
VEN000345	Cave and Company Printing	APP023084	1/6/2015	101008223	CT-OFFICE SUPPLIES	Envelopes	529.00		
VEN001537	Payroll	APP023104	1/7/2015	101008331	CT-CONSULTING	Processing charges for period	468.00	105010515	1/8/2015
VEN001637	Ray's Trash Service	APP023119	1/7/2015	101008349	CT-SERVICES	Cross Shredder	38.85		
VEN000267	Boyce Forms/systems	APP023120	1/7/2015	101008223	CT-OFFICE SUPPLIES	City Receipts	230.17		
VEN000940	ILMCT	APP023140	1/9/2015	101008350	CT-SUBSCRIPTIONS/DUES/	Municipal Clerk App Tolley	25.00		
Subtotal for Clerk Treasurer							2,166.92		
Mayor									
VEN000513	DavisVision	APP023029	1/6/2015	101009119	MAYOR-HEALTH AND DENT	ins	12.14	55774	1/6/2015
Subtotal for Mayor							12.14		
City Council									
VEN000149	ASCAP	APP023087	1/7/2015	101010347	CITY COUNCIL-PROMOTION	Licensing for City to use musi	335.00		
VEN001765	Sesac Inc	APP023117	1/9/2015	101010347	CITY COUNCIL-PROMOTION	Licensing for Music on our lan	719.00		
Subtotal for City Council							1,054.00		

Purchase Invoice Register

City of Westfield

Report Date Range: 12/22/14..01/09/15

1/9/2015 10:00 AM

Page 5 of 12

WESTFIELD\kgagnon

Buy-From Vendor No.	Buy-From Vendor Name	Invoice No.	Date	G/L Acct.	G/L Account Name	Description	Amount	Check No.	Check Date
Fund No. Fund Name									
101	General								
Public Works									
VEN001537	Payroll	APP022996	1/5/2015	101013111	PW-SALARY	sal	55,958.59	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101013119	PW-HEALTH AND DENTAL	hsa	11,744.28	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101013120	PW-FICA AND MEDICARE	fica	3,264.23	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101013120	PW-FICA AND MEDICARE	med	763.40	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	101013121	PW-PERF	perf	7,716.65	102010115	1/6/2015
VEN000513	DavisVision	APP023029	1/6/2015	101013119	PW-HEALTH AND DENTAL	ins	347.32	55774	1/6/2015
VEN001537	Payroll	APP023031	1/5/2015	101013119	PW-HEALTH AND DENTAL		7,005.72	102010115	1/6/2015
Subtotal for Public Works							86,800.19		
Communications									
VEN002273	Commercial Artisan	APP023101	1/7/2015	101020347	COMM-PROMOTIONS	2014 year end review	600.00		
VEN000942	Imagery LLC	APP023102	1/7/2015	101020347	COMM-PROMOTIONS	Grand Park promo	993.05		
Subtotal for Communications							1,593.05		
Subtotal for Fund 101 General							443,860.18		
Fund No. Fund Name									
201	Motor Vehicle Highway (MVH)								
Public Works									
VEN001363	Mid-state Truck Equipment	APP022938	12/22/2014	201013476	MVH-EQUIP LEASES	Pub Wks lease final invoice li	11,704.82	55717	12/29/2014
VEN000589	Duke Energy	APP023038	1/6/2015	201013341	MVH-ELECTRIC	Farr Hills	81.71		
VEN000589	Duke Energy	APP023038	1/6/2015	201013341	MVH-ELECTRIC	Farr Hills Hwy Lights	80.74		
Subtotal for Public Works							11,867.27		
Subtotal for Fund 201 Motor Vehicle Highway (MVH)							11,867.27		
Fund No. Fund Name									
203	Fire Operating								
Fire									
VEN001537	Payroll	APP022996	1/5/2015	203012111	FIRE-SALARY	sal	176,765.03	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	203012119	FIRE-HEALTH AND DENTAL	hsa	42,000.00	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	203012120	FIRE-FICA AND MEDICARE	fica	10,452.67	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	203012120	FIRE-FICA AND MEDICARE	med	2,444.55	102010115	1/6/2015
VEN001537	Payroll	APP022996	1/5/2015	203012121	FIRE-PERF	perf	32,934.29	102010115	1/6/2015
VEN000513	DavisVision	APP023029	1/6/2015	203012119	FIRE-HEALTH AND DENTAL	ins	762.20	55774	1/6/2015

Purchase Invoice Register

City of Westfield

Report Date Range: 12/22/14..01/09/15

1/9/2015 10:00 AM

Page 6 of 12

WESTFIELD\kgagnon

Buy-From Vendor No.	Buy-From Vendor Name	Invoice No.	Date	G/L Acct.	G/L Account Name	Description	Amount	Check No.	Check Date
Fund No. Fund Name									
203	Fire Operating								
	Fire								
VEN001717	Russ Shoaf	APP023039	1/6/2015	203012334	FIRE-TRAVEL/TRAINING/SE		53.49		
VEN001140	Josh Southerland	APP023040	1/6/2015	203012334	FIRE-TRAVEL/TRAINING/SE		498.45		
VEN001108	Jeremy Devitt	APP023041	1/6/2015	203012334	FIRE-TRAVEL/TRAINING/SE		2,286.88		
VEN000689	Federal Field Services LLC	APP023042	1/6/2015	203012346	FIRE-TORNADO SIREN		2,437.50		
VEN001846	Stoops Freightliner	APP023043	1/6/2015	203012360	FIRE-VEHICLE MAINT		5.85		
VEN000903	Hoosier Fire Equipment	APP023044	1/6/2015	203012472	FIRE-EQUIP		39.00		
VEN001826	Staples	APP023045	1/6/2015	203012223	FIRE-OFFICE SUPPLIES		163.44		
VEN000235	BGI FITNESS	APP023046	1/6/2015	203012343	FIRE-BUILDING MAINTENAN		75.00		
VEN001637	Ray's Trash Service	APP023047	1/6/2015	203012349	FIRE-SERVICES		33.30		
VEN000633	Embroidery Plus	APP023050	1/6/2015	203012229	FIRE-UNIFORMS		1,334.75		
VEN000644	Enviro-max Inc	APP023051	1/6/2015	203012343	FIRE-BUILDING MAINTENAN		890.75		
VEN002148	Witmer Public Safety Group	APP023052	1/6/2015	203012229	FIRE-UNIFORMS		43.00		
VEN002346	R Adams Roofing Inc	APP023054	1/6/2015	203012343	FIRE-BUILDING MAINTENAN		295.01		
VEN001826	Staples	APP023055	1/6/2015	203012223	FIRE-OFFICE SUPPLIES		199.96		
VEN000903	Hoosier Fire Equipment	APP023056	1/6/2015	203012472	FIRE-EQUIP		184.50		
VEN001573	Pitney Bowes	APP023057	1/6/2015	203012333	FIRE-POSTAGE		126.50		
VEN002336	Citizens Westfield	APP023058	1/6/2015	203012328	FIRE-GAS/HEAT		261.96		
VEN000274	Bredensteiner Imaging	APP023059	1/6/2015	203012337	FIRE-PRINTING		70.00		
VEN003220	John Tierney	APP023060	1/6/2015	203012223	FIRE-OFFICE SUPPLIES		475.00		
VEN002336	Citizens Westfield	APP023063	1/7/2015	203012342	FIRE-WATER/SEWER	Sta 83 Domestic	338.25		
VEN002336	Citizens Westfield	APP023063	1/7/2015	203012342	FIRE-WATER/SEWER	Sta 83 Fire Fill	92.40		
VEN002336	Citizens Westfield	APP023063	1/7/2015	203012342	FIRE-WATER/SEWER	Sta 82	184.82		
VEN000365	Chapman Electric Supply	APP023064	1/7/2015	203012343	FIRE-BUILDING MAINTENAN		10.77		
VEN002336	Citizens Westfield	APP023078	1/6/2015	203012342	FIRE-WATER/SEWER	Fire Line Charges	82.18		
VEN000733	Freije Engineered Solutions Co	APP023122	1/9/2015	203012343	FIRE-BUILDING MAINTENAN		1,475.32		
VEN002353	Boldens Cleaners	APP023133	1/8/2015	203012229	FIRE-UNIFORMS		62.65		
VEN001942	The Uniform House, Inc	APP023134	1/8/2015	203012229	FIRE-UNIFORMS		35.86		
VEN001264	Love At First Sight	APP023135	1/8/2015	203012347	FIRE-PROMOTIONS		142.00		
VEN001459	North Central Co-Op	APP023136	1/8/2015	203012226	FIRE-VEHICLE GAS/SUPPLIE		3,895.43		
Subtotal for Fire							281,152.76		
Subtotal for Fund 203 Fire Operating							281,152.76		

Purchase Invoice Register

City of Westfield

Report Date Range: 12/22/14..01/09/15

1/9/2015 10:00 AM

Page 7 of 12

WESTFIELD\kgagnon

Buy-From Vendor No.	Buy-From Vendor Name	Invoice No.	Date	G/L Acct.	G/L Account Name	Description	Amount	Check No.	Check Date
Fund No. Fund Name									
206	Parks Programming/Events								
Parks									
VEN001159	Kathleen Marsh	APP023012	1/5/2015	206005349	PARKS PROGRAM/SERVICE	Number of enrollee's in Arm K	24.00		
VEN002598	Creative Escape Inc	APP023013	1/5/2015	206005349	PARKS PROGRAM/SERVICE	Number of enrollees for Paint	120.00		
VEN002270	Midwest Taekwondo Academy	APP023014	1/5/2015	206005349	PARKS PROGRAM/SERVICE	Number of enrollees for Dece	301.00		
VEN002269	Jennifer Carrillo	APP023015	1/5/2015	206005349	PARKS PROGRAM/SERVICE	Number of enrollees for Zumb	144.00		
VEN002113	Westfield Playhouse	APP023082	1/6/2015	206005347	PARKS PROGRAM/PROMOT	Voices from the past event	750.00		
VEN002837	WWHS	APP023083	1/6/2015	206005347	PARKS PROGRAM/PROMOT	Voices from the past	250.00		
VEN001716	Runyon Equipment Rental	APP023085	1/6/2015	206005349	PARKS PROGRAM/SERVICE	Movies in the Park	83.00		
Subtotal for Parks							1,672.00		
Subtotal for Fund 206 Parks Programming/Events							1,672.00		
Fund No. Fund Name									
268	Emergency Medical and Equip								
Fire									
VEN000403	Ciproms Inc	APP023048	1/6/2015	268012349	EMS-SERVICES		1,424.39		
VEN000266	Bound Tree Medical	APP023049	1/6/2015	268012224	EMS-OPERATING SUPPLIES		864.56		
VEN000065	Airgas Mid America	APP023053	1/6/2015	268012224	EMS-OPERATING SUPPLIES		54.43		
VEN000266	Bound Tree Medical	APP023061	1/6/2015	268012224	EMS-OPERATING SUPPLIES		21.95		
VEN003246	Accent Cigna	APP023103	1/8/2015	268012349	EMS-SERVICES		481.00		
VEN000126	Anthem Blue Cross Blue Shield	APP023106	1/8/2015	268012349	EMS-SERVICES		352.80		
VEN003273	Patty Barth	APP023107	1/8/2015	268012349	EMS-SERVICES		94.33		
VEN003274	Warren F Kuhn	APP023108	1/8/2015	268012349	EMS-SERVICES		98.77		
VEN003272	GB-Rolling Meadows	APP023109	1/8/2015	268012349	EMS-SERVICES		481.00		
Subtotal for Fire							3,873.23		
Subtotal for Fund 268 Emergency Medical and Equip							3,873.23		

Report Date Range: 12/22/14..01/09/15

1/9/2015 10:00 AM

Page 8 of 12

WESTFIELD\kgagnon

Buy-From Vendor No.	Buy-From Vendor Name	Invoice No.	Date	G/L Acct.	G/L Account Name	Description	Amount	Check No.	Check Date
Fund No.	Fund Name								
269	Training Facility Center								
	Public Safety (Police and Fire)								
VEN002048	Vectren	APP023034	1/6/2015	269014328	TRAINING FAC-HEAT/GAS	Training Facility	68.45		
VEN000589	Duke Energy	APP023035	1/6/2015	269014341	TRAINING FAC-ELECTRIC	Training Facility Const Temp	445.02		
VEN000589	Duke Energy	APP023035	1/6/2015	269014341	TRAINING FAC-ELECTRIC	Training Facility Fire Dept	710.65		
VEN002191	City of Noblesville Utilities	APP023062	1/5/2015	269014342	TRAINING FAC-WATER/SE	Sewer usage for Dec	18.41		
	Subtotal for Public Safety (Police and Fire)						1,242.53		
	Subtotal for Fund 269 Training Facility Center						1,242.53		
Fund No.	Fund Name								
312	GO Bond #3 2005 Debt Service								
	Clerk Treasurer								
VEN002032	US Bank	APP022997	1/5/2015	312008280	GO BOND #3 DEBT SERVIC	gen ob bond 2005	211,498.75	103010515	1/5/2015
	Subtotal for Clerk Treasurer						211,498.75		
	Subtotal for Fund 312 GO Bond #3 2005 Debt Service						211,498.75		
Fund No.	Fund Name								
314	2012 and 2013 COIT BAN Interest Ph II								
	Clerk Treasurer								
VEN001652	Regions Bank	APP023093	1/6/2015	314008381	2012-13 COIT BAN-INTERES	coit ban 2012	114,365.00	104013015	1/30/2015
	Subtotal for Clerk Treasurer						114,365.00		
	Subtotal for Fund 314 2012 and 2013 COIT BAN Interest Ph II						114,365.00		
Fund No.	Fund Name								
316	Main St TIF 2011B								
	Clerk Treasurer								
VEN001652	Regions Bank	APP022998	1/5/2015	316008280	MAIN ST TIF DEBT	ms westfield project	33,704.80	55772	1/5/2015
	Subtotal for Clerk Treasurer						33,704.80		
	Subtotal for Fund 316 Main St TIF 2011B						33,704.80		

Purchase Invoice Register

City of Westfield

Report Date Range: 12/22/14..01/09/15

1/9/2015 10:00 AM

Page 9 of 12

WESTFIELD\kgagnon

Buy-From Vendor No.	Buy-From Vendor Name	Invoice No.	Date	G/L Acct.	G/L Account Name	Description	Amount	Check No.	Check Date
Fund No. Fund Name									
640	Sports Campus Operating								
Grand Park									
VEN002959	Grand Park Sports LLC	APP023110	1/5/2015	640015349	SPORTS CAMPUS-SERVICE	Oct services	27,500.00		
VEN002336	Citizens Westfield	APP023123	1/7/2015	640015341	SPORTS CAMPUS-ELECTRI	201 W 191st St GP1	118.21		
VEN002336	Citizens Westfield	APP023123	1/7/2015	640015341	SPORTS CAMPUS-ELECTRI	152 W 186th St GP2	118.21		
VEN002336	Citizens Westfield	APP023123	1/7/2015	640015341	SPORTS CAMPUS-ELECTRI	5 E 191st Soccer maint bldg	118.21		
VEN002336	Citizens Westfield	APP023123	1/7/2015	640015341	SPORTS CAMPUS-ELECTRI	943 E 191st	118.21		
VEN002336	Citizens Westfield	APP023123	1/7/2015	640015341	SPORTS CAMPUS-ELECTRI	721 E 191st Conc 6	118.21		
VEN002336	Citizens Westfield	APP023123	1/7/2015	640015341	SPORTS CAMPUS-ELECTRI	711 E 191st Baseball maint bl	118.21		
VEN002336	Citizens Westfield	APP023123	1/7/2015	640015341	SPORTS CAMPUS-ELECTRI	720 E 186th St	118.21		
VEN002336	Citizens Westfield	APP023123	1/7/2015	640015341	SPORTS CAMPUS-ELECTRI	201 W 191st St GP1	133.14		
VEN002336	Citizens Westfield	APP023123	1/7/2015	640015341	SPORTS CAMPUS-ELECTRI	152 W 186th St GP2	131.57		
VEN002336	Citizens Westfield	APP023123	1/7/2015	640015341	SPORTS CAMPUS-ELECTRI	5 E 191st Soccer maint bldg	137.47		
VEN002336	Citizens Westfield	APP023123	1/7/2015	640015341	SPORTS CAMPUS-ELECTRI	943 E 191st	131.57		
VEN002336	Citizens Westfield	APP023123	1/7/2015	640015341	SPORTS CAMPUS-ELECTRI	721 E 191st Conc 6	135.51		
VEN002336	Citizens Westfield	APP023123	1/7/2015	640015341	SPORTS CAMPUS-ELECTRI	711 E 191st Baseball maint bl	139.05		
VEN002336	Citizens Westfield	APP023123	1/7/2015	640015341	SPORTS CAMPUS-ELECTRI	720 E 186th St	131.57		
Subtotal for Grand Park							29,267.35		
Subtotal for Fund 640 Sports Campus Operating							29,267.35		
Fund No. Fund Name									
646	WestfieldConnects								
WestfieldConnects									
VEN001462	Northern Lights	APP023138	1/9/2015	646019349	WESTFIELDCONNECTS-SE	Utility locating service for Oct	9,924.00		
Subtotal for WestfieldConnects							9,924.00		
Subtotal for Fund 646 WestfieldConnects							9,924.00		

Purchase Invoice Register

City of Westfield

Report Date Range: 12/22/14..01/09/15

1/9/2015 10:00 AM

Page 10 of 12

WESTFIELD\kgagnon

Buy-From Vendor No.	Buy-From Vendor Name	Invoice No.	Date	G/L Acct.	G/L Account Name	Description	Amount	Check No.	Check Date
Fund No. Fund Name									
651	Infrastructure Improv								
Public Works									
VEN002209	SBS Group	APP022939	12/22/2014	651013474	INFRASTRUCTURE IMPRO	Change Request to cover addi	1,180.00	55744	12/29/2014
VEN002209	SBS Group	APP022939	12/22/2014	651013474	INFRASTRUCTURE IMPRO	Add'l cost to contract per Jere	500.00	55744	12/29/2014
VEN001521	Parsons Brinckerhoff Inc	APP023016	1/5/2015	651013474	INFRASTRUCTURE IMPRO	Replaces PO2175/ROW Man	17,111.85		
VEN001521	Parsons Brinckerhoff Inc	APP023017	1/5/2015	651013474	INFRASTRUCTURE IMPRO	ROW Acquisition for Wheeler	1,555.00		
VEN001521	Parsons Brinckerhoff Inc	APP023018	1/5/2015	651013474	INFRASTRUCTURE IMPRO	Task Order 7 - OLD PO00217	1,680.00		
VEN001521	Parsons Brinckerhoff Inc	APP023019	1/5/2015	651013474	INFRASTRUCTURE IMPRO	R/W services for Trail Conn	1,584.00		
VEN000182	Bam Outdoor	APP023033	1/7/2015	651013474	INFRASTRUCTURE IMPRO	Tree Removal for Mill St.	17,500.00		
VEN000204	Beam Longest and Neff	APP023121	1/7/2015	651013474	INFRASTRUCTURE IMPRO	Easement Description (Auto P	700.00		
Subtotal for Public Works							41,810.85		
Subtotal for Fund 651 Infrastructure Improv							41,810.85		

Purchase Invoice Register

City of Westfield

Report Date Range: 12/22/14..01/09/15

1/9/2015 10:00 AM

Page 11 of 12

WESTFIELD\kgagnon

Buy-From Vendor No.	Buy-From Vendor Name	Invoice No.	Date	G/L Acct.	G/L Account Name	Description	Amount	Check No.	Check Date
Fund No. Fund Name									
701 Payroll									
Clerk Treasurer									
VEN000008	77 Police and Fire Fund	APP022947	12/23/2014	701008133	PAYROLL-PERF	non civilian perf	47,860.99	100122214	12/24/2014
VEN001550	PERF	APP022948	12/23/2014	701008133	PAYROLL-PERF	civilian perf	36,518.33	101122214	12/23/2014
VEN000703	Fire Fighters Credit Union	APP022987	1/5/2015	701008141	PAYROLL-UNION DUES	union dues	1,862.21	16284	1/5/2015
VEN001864	Supporting heroes	APP022988	1/5/2015	701008991	PAYROLL-MISC	contributions	125.50	16286	1/5/2015
VEN000948	IN Family and Social Services Admin	APP022989	1/5/2015	701008140	PAYROLL-SUPPORT WITHH	child support	2,222.42	104010515	1/5/2015
VEN001583	Police and Firemen's Insurance	APP022990	1/5/2015	701008930	PAYROLL-INS. DED	insurance	69.12	16285	1/5/2015
VEN000163	Aul Retirement	APP022991	1/5/2015	701008931	PAYROLL-401A MATCHING-	loan	4,143.88	101010515	1/5/2015
VEN000163	Aul Retirement	APP022992	1/5/2015	701008931	PAYROLL-401A MATCHING-	retirement	11,597.76	102010515	1/5/2015
VEN000959	Indiana Dept Of Revenue	APP022993	1/5/2015	701008923	PAYROLL-STATE WITHHOL	state	13,636.89	107010515	1/5/2015
VEN000959	Indiana Dept Of Revenue	APP022993	1/5/2015	701008923	PAYROLL-STATE WITHHOL	coit	4,580.59	107010515	1/5/2015
VEN000920	Huntington National Bank	APP022994	1/5/2015	701008131	PAYROLL-EMPLOYER'S FIC	fica	26,783.89	103010515	1/5/2015
VEN000920	Huntington National Bank	APP022994	1/5/2015	701008132	PAYROLL-EMPLOYER'S ME	med	6,263.97	103010515	1/5/2015
VEN000920	Huntington National Bank	APP022994	1/5/2015	701008921	PAYROLL-FEDERAL WITHH	fed	50,562.96	103010515	1/5/2015
VEN000920	Huntington National Bank	APP022994	1/5/2015	701008922	PAYROLL-EMPLOYEE FICA	med	6,263.96	103010515	1/5/2015
VEN000920	Huntington National Bank	APP022994	1/5/2015	701008922	PAYROLL-EMPLOYEE FICA	fica	26,783.92	103010515	1/5/2015
VEN002177	Indiana Members Credit Union	APP022999	1/5/2015	701008930	PAYROLL-INS. DED	hsa	131.90	16287	1/5/2015
VEN001550	PERF	APP023000	1/5/2015	701008133	PAYROLL-PERF	civilian perf	35,293.80	105010515	1/5/2015
VEN000008	77 Police and Fire Fund	APP023001	1/5/2015	701008133	PAYROLL-PERF	non civilian perf	48,303.61	100010515	1/5/2015
VEN001537	Payroll	APP023002	1/5/2015	701008110	PAYROLL-NET SALARIES	net sal	312,768.58	106010515	1/5/2015
VEN002177	Indiana Members Credit Union	APP023005	1/5/2015	701008930	PAYROLL-INS. DED	hsa	109,250.00	16288	1/5/2015
VEN000058	AFLAC	APP023030	1/6/2015	701008930	PAYROLL-INS. DED	insurance	8,027.54	16289	1/6/2015
Subtotal for Clerk Treasurer							753,051.82		
Subtotal for Fund 701 Payroll							753,051.82		

City of Westfield

Report Date Range: 12/22/14..01/09/15

1/9/2015 10:00 AM

Page 12 of 12

WESTFIELD\kgagnon

Buy-From Vendor No.	Buy-From Vendor Name	Invoice No.	Date	G/L Acct.	G/L Account Name	Description	Amount	Check No.	Check Date
Fund No.	Fund Name								
900	Stormwater								
	Stormwater								
VEN001537	Payroll	APP022995	1/5/2015	900016111	STORM-SALARY	sal	2,325.63	100010515	1/5/2015
VEN001537	Payroll	APP022995	1/5/2015	900016120	STORM-FICA AND MEDICAR	fica	144.19	100010515	1/5/2015
VEN001537	Payroll	APP022995	1/5/2015	900016120	STORM-FICA AND MEDICAR	med	33.72	100010515	1/5/2015
VEN001537	Payroll	APP022995	1/5/2015	900016121	STORM-PERF	perf	330.24	100010515	1/5/2015
	Subtotal for Stormwater						2,833.78		
	Subtotal for Fund 900 Stormwater						2,833.78		
	Posted Invoices Total						1,940,124.32		

Credit Memos

Vendor No.	Vendor Name	Cr. Memo No.	Date	GL Acct.	GL Account Name	Description	Amount
------------	-------------	--------------	------	----------	-----------------	-------------	--------

Credit Memo Total

RESOLUTION NO. 15-100

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
WESTFIELD CONCERNING THE HAMILTON COUNTY PUBLIC TRAINING FACILITY

WHEREAS, the City of Westfield (“the City”) has acquired certain real estate near 161st Street and River Road in Noblesville Township, Hamilton County, Indiana, (“the Real Estate”) for the purpose of constructing a public training facility to serve the public safety agencies within Hamilton County; and,

WHEREAS, the City believes that it is in the best interest of all citizens of Hamilton County that the Real Estate be developed to create the Hamilton County Public Training Facility (“the Project”); and,

WHEREAS, the City further believes that it is in the best interest of all citizens of Hamilton County that Hamilton County; the City of Carmel; the City of Fishers; the City of Noblesville; and the City of Westfield (collectively “the Participating Units”) enter into Interlocal Agreements for the operation of the Project; and,

WHEREAS, the City believes the most important unbuilt facilities of the Project include a firing range and a fire tower, which should be funded in the relatively near future; and,

WHEREAS, the Common Council of the City believes that all of the above municipal corporations should agree to fund the annual operating budget of the Project up to an initial annual amount of Forty Thousand Dollars (\$40,000) per year.

IT IS THEREBY RESOLVED by the Common Council of the City of Westfield as follows:

1. The Common Council of the City of Westfield resolves its full and complete support for the construction of the firing range and fire tower upon the Real Estate.
2. The City formally requests the Hamilton County Council to fund the construction of the improvements described above up to an amount not to exceed Three Million Dollars (\$3,000,000).

3. The City agrees to contribute Forty Thousand Dollars (\$40,000) toward the initial annual operating cost of the Project, conditioned upon the Participating Units agreeing to contribute the same amount to the initial annual operating budget for the Project.
4. The City agrees to communicate and cooperate with the other Participating Units to draft and approve an Interlocal Agreement for the operation and future development of the Project.
5. This Resolution shall be in full force and effect upon passage.

Adopted this 12^h day of January, 2015.

WESTFIELD TOWN COUNCIL
Hamilton County, Indiana

<u>Voting For</u>	<u>Voting Against</u>	<u>Abstain</u>
Jim Ake	Jim Ake	Jim Ake
Robert L. Horkay	Robert L. Horkay	Robert L. Horkay
Steve Hoover	Steve Hoover	Steve Hoover
Chuck Lehman	Chuck Lehman	Chuck Lehman
Robert Smith	Robert Smith	Robert Smith
Cindy L. Spoljaric	Cindy L. Spoljaric	Cindy L. Spoljaric
Robert Stokes	Robert Stokes	Robert Stokes

ATTEST:

Cindy J. Gossard, Clerk-Treasurer

I hereby certify that RESOLUTION 15-100 was delivered to the Mayor of Westfield
on the _____ day of _____, 2015, at _____ m.

Cindy Gossard, Clerk-Treasurer

I hereby APPROVE RESOLUTION 15-100 I hereby VETO RESOLUTION 15-100
this _____ day of _____, 2015. this _____ day of _____, 2015.

J. Andrew Cook, Mayor

J. Andrew Cook, Mayor

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT ("Lease") is made and entered into as of the ____ day of _____, 2015 (the "Effective Date"), by and between the **CITY OF WESTFIELD, INDIANA** ("Landlord"), and **INDIANA SPORTS PROPERTIES, LLC**, an Indiana limited liability company ("Tenant"). Landlord is the lessee under that certain Lease Agreement, dated November 6, 2014, ("Master Lease"), from Holladay Properties Grand Park Sports I LLC ("Prime Landlord") for the entire facility and real property located at 19000 Grand Park Boulevard, Westfield, Indiana.

W I T N E S S E T H :

ARTICLE I **LEASED PREMISES AND COMMON AREAS**

Section 1.01. Leased Premises. (a) Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, a portion of an integrated indoor soccer facility located at 19000 Grand Park Boulevard, Westfield, Indiana, on the real estate described on Exhibit A attached hereto and incorporated herein by reference (the "Facility"). The portion of the Facility hereby leased to Tenant is depicted and designated as "Fields and Flex Center" on the attached Exhibit B (the "Leased Premises"), containing approximately Three Hundred Forty-Nine Thousand One Hundred Eighteen (349,118) rentable square feet ("Rentable Area"), consisting of 295,650 square feet of Fields, and 53,468 square feet in two concourses in the areas and the spaces reflected on Exhibit C attached hereto. Landlord shall be entitled to change or modify the building, Common Areas (as hereinafter defined) or other improvements and facilities of the Facility, provided that neither the Leased Premises nor the general character of the Facility shall be materially changed.

(b) In addition to and included in the definition of the Leased Premises, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, that portion of the Facility depicted and designated as "Office" on Exhibit C attached hereto ("Secondary Office Space"), containing approximately Three Thousand Seven Hundred Eighty (3,780) rentable square feet. Tenant shall be responsible for paying the Minimum Annual Rent for this Secondary Office Space in the amounts set forth in Article IV hereof and the Annual Common Area Costs set forth in Article V hereof. Tenant shall oversee, manage and administer this Secondary Office Space in the Leased Premises and terms of this Lease shall govern that space.

Section 1.02. Use Rights of Landlord. Landlord may from time to time, in coordination with Tenant, grant to any party, person or entity the non-exclusive right to conduct any event, business or undertaking in the Facility, to the extent permitted under this Lease, with the intent that Landlord desires to commercially exploit the advantage of the expanse of the Facility for fully having the Facility used, rented and programmed as much as is reasonably practicable.

Section 1.03. Use of Common Areas. Landlord grants to Tenant, its agents, employees, invitees, licensees and concessionaires the non-exclusive right during the Lease Term (as hereinafter defined) to use the parking areas and ingress, egress and access roads and other facilities in the Common Areas as shall be made available by Landlord in its sole discretion. Tenant's use of the Common Areas shall be in common with others entitled to the use thereof and subject to the provisions of this Lease.

Section 1.04. Master Lease. Landlord is the tenant under the Master Lease with the Prime Landlord identified above. Landlord represents and warrants to Tenant that (a) Landlord has delivered to Tenant a full and complete copy of the Master Lease and all other agreements between Prime Landlord and Landlord relating to the leasing, use, and occupancy of the Premises, (b) the Master Lease is, as of the

date hereof, in full force and effect, and (c) no event of default has occurred under the Master Lease and, to Landlord's knowledge, no event has occurred and is continuing which would constitute an event of default but for the requirement of the giving of notice and/or the expiration of the period of time to cure.

ARTICLE II **LEASE TERM**

Section 2.01. Term. The "Commencement Date" of the Lease shall be _____, 2015. The "Rent Commencement Date" shall be the date on which the Facility opens for business to the public, which opening shall not occur until construction is completed and the building is accepted by the Landlord and a certificate of occupancy is issued. Landlord intends to open the Facility not later than January 1, 2016 ("Opening Date"). The term of this Lease shall be for the period commencing on the Rent Commencement Date and continuing for one hundred twenty (120) months from the Rent Commencement Date (the "Original Term"). The parties shall execute a confirmation of lease term reflecting the actual Commencement Date and Rent Commencement Date. As used in this Lease, the term "Lease Year" shall mean a calendar year, the first Lease Year commencing on the first day of January following the Rent Commencement Date, and each succeeding Lease Year commencing on the anniversary of the first Lease Year. A "Fractional Lease Year" is defined to mean the period from the Rent Commencement Date to December 31 of such year and the period of the Lease Term following the last full calendar Lease Year, whether the Lease expires by its terms or otherwise.

Section 2.02. Renewal. If Tenant is not in default of any of the terms and conditions of this Lease and there is not any fact or circumstance which, with the passage of time or the giving of notice or both, could become a default hereunder, then Tenant shall have the option to renew this Lease for two (2) additional terms of five (5) years each (each a "Renewal Term"), the first of which shall commence upon the expiration of the Original Term and the second of which shall commence upon the expiration of the first Renewal Term. All of the terms, provisions, conditions, covenants, and obligations of this Lease shall apply during the Renewal Terms, except that the Minimum Annual Rent shall be as set forth in Section 4.06 herein. The renewal option shall be exercised by Tenant providing written notice to Landlord of Tenant's intent to exercise its renewal option not less than one hundred eighty (180) days prior to the expiration of the Original Term or the first Renewal Term, as applicable. If notice is not given in the manner provided herein within the time specified, this option to renew shall expire. The Original Term and any Renewal Terms are referred to herein collectively as the "Lease Term".

Section 2.03. Holding Over. If Tenant holds over and remains in possession of the Leased Premises after the expiration or earlier termination of this Lease with the consent of Landlord and without the execution of a new lease, such holding over and continued possession shall, if rent is paid by Tenant and accepted by Landlord, constitute a month to month lease upon the terms (other than length of term) herein specified, except with monthly rental at the rate of one hundred ten percent (110%) of the last month's rent, which holdover may at any time be terminated by either party upon thirty (30) days written notice given to the other party. If Tenant remains in possession of the Leased Premises after the expiration or earlier termination of this Lease without the consent of Landlord, Tenant shall be deemed to be occupying the Leased Premises as a tenant at sufferance at a rental of one hundred fifty percent (150%) of the last month's rent and otherwise subject to all the conditions, provisions and obligations of this Lease insofar as they are applicable to a tenancy at sufferance.

ARTICLE III **CONSTRUCTION OF IMPROVEMENTS**

Section 3.01. Landlord's Work. Landlord shall substantially complete construction and furnishing of the Facility, the Leased Premises and the Secondary Office Space, subject to minor punch

list items, on or before the Rent Commencement Date. Landlord has provided to Tenant the plans and specifications for the Facility in which the Leased Premises are located. Tenant may review and comment on the plans and specifications.

Section 3.02. Tenant's Rights During Construction. Landlord recognizes that Tenant will be the original primary tenant of the Leased Premises. As such, Tenant shall have the right to (i) provide input into all major design and construction decisions, but the ultimate authority for any changes and revisions rest solely with Landlord; (ii) participate in all construction meetings; (iii) visit and inspect the Leased Premises at reasonable times during construction; and (iv) participate in the creation of the construction punch list.

Section 3.03. Fixtures. All of Tenant's trade fixtures, inventory and equipment installed in or at the Leased Premises may be removed by Tenant upon the expiration or earlier termination of this Lease, provided that (i) Tenant shall repair any damage to the Leased Premises or the Facility caused by such removal, and (ii) there is no default, nor any fact or circumstance which, with the passage of time or the giving of notice or both, could become a default, hereunder by Tenant at such time. After the expiration or earlier termination of this Lease, Landlord shall have the right to remove Tenant's leasehold improvements, trade fixtures and equipment and to have any damage from such removal repaired at Tenant's sole cost and expense. Tenant's obligation to pay such expenses to Landlord shall survive the expiration or earlier termination of this Lease.

Section 3.04. Period Prior to Commencement Date. Landlord shall have no responsibility or liability whatsoever for any loss or damage to any of Tenant's leasehold improvements, fixtures, equipment or merchandise installed or left in the Leased Premises prior to the Commencement Date. Tenant's entry upon and occupancy of the Leased Premises prior to the Commencement Date shall be governed by and subject to the provisions, covenants and conditions of this Lease with respect to use, insurance, indemnity, remedies and mechanic's liens.

ARTICLE IV

RENT

Section 4.01. Minimum Rent. Tenant shall pay to Landlord as minimum rent for the Leased Premises the sums per year ("Minimum Annual Rent") in equal semi-annual installments ("Minimum Semi-Annual Rent") for the Leased Premises and the Secondary Office Space as set forth on Exhibit G attached hereto. Tenant acknowledges and agrees that the final Rent amounts will be adjusted up or down by the percentage change in the revised debt amortization schedule received by Landlord, so long as such amounts do not increase by more than \$125,000 annually from the current Rent Schedule set forth on Exhibit G. If the increase in Rent amounts based on the final debt amortization schedule received by Landlord is more than \$125,000 annually, and both parties agree that all alternatives for an agreed upon Rent schedule, after good faith and diligent negotiation, have been exhausted, this Lease will terminate with no further obligations by either party.

The Minimum Semi-Annual Rent shall be payable after the Rent Commencement Date and thereafter on the first day of each January 1 and July 1 during the Lease Term, without relief from valuation or appraisal laws. Hereinafter, the term "Minimum Rent" shall refer to either Minimum Annual Rent or Minimum Semi-Annual Rent, as appropriate. All rent obligations shall be independent obligations of Tenant and Tenant shall not have any right to set off any claim of whatever nature which it may have against Landlord against Minimum Rent or other obligations under this Lease.

Section 4.02. Rent Payments in the Event of Late Opening. In the event the Opening Date is later than January 15, 2016, but before July 1, 2016, Tenant's sole obligation for the Rent Payment due

July 1, 2016, shall be payment of 100% of the Net Rental Revenue from the Leased Premises through June 30, 2016. In the event the Opening date is later than July 1, 2016, Tenant's sole obligation for the Rent Payment due January 1, 2017, shall be payment of 100% of the Net Rental Revenue from the Leased Premises through December 31, 2016. For purposes of this Section, "Net Rental Revenue" shall mean all revenue received by Tenant on a cash basis related to the Leased Premises (not including deposits for services not rendered by the Rent Payment due date) minus all expenses incurred by Tenant on a cash basis directly related to the Leased Premises. If the Leased Premises are not completed and available for occupancy and Tenant's intended use by January 1, 2017, and both parties agree that all alternatives for proceeding with this Lease as contemplated herein, after good faith and diligent negotiation, have been exhausted, this Lease shall terminate with no further obligations by either party.

Section 4.03. Facility Revenue Sharing. Landlord and Tenant shall share in the net revenue of the Facility and generated from non-sporting events, which revenue shall exclude sponsorships as defined in Section 7.04 hereof, which revenue sharing formula is defined on the attached Exhibit E in the amounts and for the periods as set forth on Exhibit E.

Section 4.04. Reimbursement of Expenses. In addition to the payment of Minimum Rent as provided in this Article IV, Tenant shall pay to Landlord all other sums of money and charges required to be paid by Tenant to Landlord under this Lease. If any such sum or charge is not paid at the time provided in this Lease, it shall nevertheless be collectible with the next installment of Minimum Rent, provided that nothing contained herein shall be deemed to suspend or delay the payment of such sum or charge or to limit any remedy of Landlord in respect to Tenant's nonpayment.

Section 4.05. Place of Payments. All payments required to be paid and all statements or notices required to be rendered by Tenant or Landlord shall be delivered to the other party at its address set forth in Section 17.16 or to such other address as Landlord or Tenant shall specify in accordance with such Section.

Section 4.06. Cure Period. Beginning in Year 2, if Tenant fails to make full payment as due on July 1 or January 1, Tenant shall have until September 1 and February 1, respectively to make full payment. If Tenant fails to make full payment during the relevant cure period, Landlord shall have the right to withdraw from the Escrow Account (defined below in section 17.02), an amount not to exceed the unpaid balance. Tenant shall not be in default for non-payment of rent unless and until the cure period expires and the Escrow Fund is insufficient to pay the balance due.

Section 4.07. Late Charges. In the event Tenant fails to pay within five (5) days after the same is due and payable any installment of Minimum Rent or any other sum or charge required to be paid by Tenant to Landlord under this Lease, such unpaid amount shall bear interest from the due date thereof to the date of payment at the rate of eight percent (8%) per annum until paid. In the event such late charge is due to Landlord, Tenant shall pay such charge to Landlord along with and in addition to the next payment of Minimum Rent.

Section 4.08. Renewal Minimum Rent. In the event Tenant exercises its option(s) for Renewal pursuant to Section 2.02 of this Lease, , the Minimum Rent for each five-year Renewal Term shall be one-hundred five percent (105%) of the Minimum Rent for the year immediately preceding the first month of the Renewal Term.

ARTICLE V COMMON AREAS

Section 5.01. Definition. As used in this Lease, “Common Areas” is defined to mean all real estate shown in and/or comprising the Facility and other facilities located thereon or appurtenant thereto designed for use in common by tenants of the Facility and their agents, employees, servants, customers, invitees and licensees, with such facilities and improvements including parking areas, ingress and egress access roads, sanitary sewers and utility lines, walkways and sidewalks, corridors, stairwells, foyer, public restrooms, landscaped and planted areas and related facilities.

Section 5.02. Management of Leased Premises and Common Areas. Landlord shall operate, manage, equip, light, heat, cool, repair, clean, maintain, and replace the Leased Premises and Common Areas for their intended purposes in such manner as Landlord in its reasonable discretion shall determine, and the Common Areas shall at all times be subject to the exclusive control and management of Landlord. Landlord may at any time temporarily close all or any part of the Common Areas to make repairs or changes and to perform such other acts in or to the Common Areas as Landlord in its reasonable discretion shall deem appropriate. Except as otherwise provided herein, if the amount or configuration of the Common Areas and any other facilities not within the Leased Premises are changed or diminished, Landlord shall not be subject to any liability therefore, nor shall Tenant be entitled to any compensation or diminution or abatement of rent, nor shall such diminution of such areas be deemed constructive or actual eviction.

Section 5.03. Charges for Common Areas. Tenant shall pay to Landlord Tenant’s proportionate share of all costs and expenses incurred by Landlord during the Lease Term in operating and maintaining the Leased Premises and Common Areas (“Common Areas Costs”) as provided in Article XIV herein. The Common Areas Costs shall include, but not be limited to, costs and expenses paid or incurred for repairing, maintaining, replacing and operating the Common Areas and improvements in the Leased Premises, Facility and Common Areas, such as paving, curbs, walkways, pole signs and directional signs, storm and sanitary sewers and lighting facilities, including roadway and drainage facilities, trash collection, utilities, security, snow and ice removal, gardening and landscaping, striping of parking areas, all charges payable by Landlord to provide utility services to the Leased Premises, Facility and Common Areas; licenses, permits, inspection and accounting fees; fees; costs of a management fee not greater than that generally charged in the Indianapolis, Indiana area for properties comparable to the Facility and administrative fees. The parties agree that charges under this Section may include one-time consulting expenses incurred to resolve any disputes regarding the appropriateness of charges under this Section, provided that such consulting expenses are incurred by mutual consent of Landlord and Tenant. Consistent with the foregoing, the following specific items shall not be included in Common Areas Costs: (i) the cost of improvements, alterations, maintenance or repairs to space leased to other tenants; (ii) debt service payments; (iii) federal, state and city income taxes on income from rents, if any; (iv) any cost or expenditure for which Landlord is reimbursed from insurance proceeds; (v) any cost or expenditure for which Landlord is reimbursed from condemnation proceeds; (vi) expenses which are billed directly to any tenant of the Facility (other than as a tenant’s share of the Common Areas Costs); (vii) costs which are covered by warranty to Landlord by contractors who have warranty obligations; (viii) leasing commissions, attorneys’ fees and collection costs related to negotiation and enforcement of other tenant leases; and (ix) real property taxes.

Section 5.04. Estimate of Annual Common Area Costs.

(a) for the Leased Premises:

<u>Period Following Commencement Date</u>	<u>Lease Year</u>	<u>Minimum Monthly CAM Payment</u>
Commencement Date-January 1 st , 2016	Year One	-0-
1 st of each Month, 2016		\$43,240.00
1 st of each Month, 2017	Year Two	\$44,104.83
1 st of each Month, 2018	Year Three	\$44,986.92
1 st of each Month, 2019	Year Four	\$45,886.50
1 st of each Month, 2020	Year Five	\$46,804.25
1 st of each Month, 2021	Year Six	\$47,740.33
1 st of each Month, 2022	Year Seven	\$48,695.17
1 st of each Month, 2023	Year Eight	\$49,669.00
1 st of each Month, 2024	Year Nine	\$50,662.25
1 st of each Month, 2025	Year Ten	\$51,675.67

(b) for the Secondary Office Space:

<u>Period Following Commencement Date</u>	<u>Lease Year</u>	<u>Minimum Monthly CAM Payment</u>
Commencement Date-January 1 st , 2016	Year One	-0-
1 st of each Month, 2016		\$1,458.33
1 st of each Month, 2017	Year Two	\$1,487.50
1 st of each Month, 2018	Year Three	\$1,517.25
1 st of each Month, 2019	Year Four	\$1,547.58
1 st of each Month, 2020	Year Five	\$1,610.08
1 st of each Month, 2021	Year Six	\$1,610.08
1 st of each Month, 2022	Year Seven	\$1,642.33
1 st of each Month, 2023	Year Eight	\$1,675.17
1 st of each Month, 2024	Year Nine	\$1,708.67
1 st of each Month, 2025	Year Ten	\$1,742.83

Any expenses above or greater than the above listed Common Area Costs incurred in the generation of revenues by Landlord shall be the responsibility of Landlord.

Section 5.05. Employee Parking. If Landlord so designates, Tenant and Tenant's employees shall park their cars only in those portions of the parking areas designated for that purpose by Landlord. Upon five (5) days prior written notice from Landlord, Tenant shall provide Landlord with the automobile license numbers of Tenant's employees.

ARTICLE VI **TAXES**

Section 6.01. Taxes on Tenant's Business and Property. Tenant shall pay and discharge when due all taxes and charges imposed upon the conduct of its business in the Leased Premises and all property taxes imposed upon its fixtures, equipment, merchandise, and other personal property on or at the Leased Premises.

ARTICLE VII
USE OF LEASED PREMISES

Section 7.01. Permissible Use and Restrictions. (a) The Leased Premises shall be continuously occupied and used solely for general recreational athletics, office space and ancillary related uses and for no other purpose without Landlord's prior written consent, and may be used for special events, conventions, trade shows as scheduled by Tenant and Landlord.

(b) Scheduling. Landlord and Tenant desire to optimize use of the Facility, including the Leased Premises, and so covenant to cooperate and communicate regarding scheduling the Facility. The parties agree to actively and in good faith participate in the process of reviewing, discussing and approving the schedule of all events at the Facility. Tenant shall manage and be responsible for scheduling and booking the Facility and the Leased Premises, but shall share with Landlord not less frequently than on a calendar quarter basis the proposed schedule 18 months into the future. Landlord's goal is to optimize use of the Facility and thereby, revenue generated by the Facility, which could include private or public non-athletic events, and to provide input as to possible events for Tenant to consider in its scheduling function.

Section 7.02. Opening for Business. Tenant shall proceed with due diligence to open for business at the Leased Premises on or prior to the Opening Date but in no event later than thirty (30) days following the Opening Date, and shall thereafter continuously, actively, and diligently operate its business on the whole of the Leased Premises in a reputable manner, maintaining in the Leased Premises a full staff of employees and a full appropriate stock of merchandise during Regular Business Hours throughout the Lease Term, unless prevented from so doing by fire, strikes, or other contingencies beyond Tenant's control.

Section 7.03. Rules and Regulations; Sign Criteria. Tenant shall comply with the rules and regulations of the Facility adopted by Landlord which are set forth in Exhibit D attached hereto and made a part hereof. Landlord shall have the right at all times to change and amend the rules and regulations in any reasonable manner as it may deem advisable for safety, care, cleanliness, preservation of good order and operation or use of the Facility. All changes and amendments to the rules and regulations of the Facility will be forwarded by Landlord to Tenant in writing and shall thereafter be carried out and observed by Tenant. Tenant shall not place or permit to be placed or maintained in or on any portion of the Facility outside the Leased Premises, including, but not limited to, any exterior doors, walls, roof, or windows of the building constituting part of the Leased Premises, any sign, awning, or canopy or other advertising matter and shall not place or permit to be placed or maintained any decoration, advertising matter on the glass or any window or door of the Leased Premises, without Landlord's prior written approval.

Section 7.04. Sponsorships. Landlord and Tenant may solicit and procure sponsorships for the Facility and any events held at the Facility. Any revenue received by Tenant, directly or indirectly, in the form of sponsorship for the Facility or events put on at the Facility shall belong to Landlord 75% and Tenant 25% if the Landlord procures the sponsorship, and split on a 60% (Landlord) and 40% (Tenant) basis if Tenant procures the sponsorship.

Section 7.05. Hazardous Substances. Tenant shall place no underground storage tanks of any kind in, on, at or under the Leased Premises and shall not place or use tanks, drums or other containers of any kind in, on, at or under the Leased Premises, the contents of which are unknown to Landlord. Tenant shall not engage in any activities involving the use, treatment, transportation, generation, storage or disposal of any Hazardous Substances (as hereinafter defined) in hazardous quantities and no Hazardous Substances in hazardous quantities shall be released on, at or from the Leased Premises. Tenant shall

notify Landlord in the event that it files any Material Safety Data Sheets (“MSDS”) or any forms or reports on an annual basis to any federal, state or local government entity pursuant to Section 312 of the federal Emergency Planning and Community Right-to-Know Act of 1986 (the “MSDS Filings”), including Tier II filings and any MSDS Filings for Extremely Hazardous Substances over the Threshold Planning Quantity. If the Tenant does make any MSDS Filings, then upon request of Landlord, Tenant shall complete any Environmental Disclosure Statement required under the Indiana Responsible Property Transfer Law (“IRPTL”) and shall pay all costs for compliance with IRPTL as a result of the MSDS Filings. The Term “Hazardous Substances” means any hazardous or toxic substance regulated by any federal, state or local statute or regulation, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA) and the Toxic Substance Control Act, or by any federal, state or local governmental agencies having jurisdiction over the control of any such substance, including, but not limited to, the United States Environmental Protection Agency (EPA). Tenant shall indemnify, defend, and hold harmless Landlord from and against (a) any loss, cost, expense, claim, or liability arising out of any investigation, monitoring, clean-up, containment, removal, storage, or restoration work (herein referred to as “Remedial Work”) required by, or incurred by, Landlord or any other person or party in a reasonable belief that such Remedial Work is required by any applicable federal, state or local law, rule, regulation or order, or by any governmental agency, authority, or political subdivision having jurisdiction over the Leased Premises as a result of or arising from the use or occupancy by Tenant or its agents, employees, or invitees of the Leased Premises, and (b) any claims of third parties for loss, injury, expense, or damage arising out of the presence, release, or discharge of any Hazardous Substances on, under, in, above, to or from the Leased Premises as a result of or arising from the use or occupancy by Tenant or its agents, employees, or invitees of the Leased Premises.

Section 7.06. Hold Harmless. Landlord shall not be liable to Tenant or to Tenant’s customers, employees, agents, guests or invitees, or to any other person whomsoever, for any injury to person or damage to property on or about the Leased Premises or the Facility, including, but not limited to, consequential damage, (1) caused by any act or omission of Tenant, its employees, subtenants, licensees, invitees and concessionaires invited by Tenant or of any other person entering the Facility or the Leased Premises by express or implied invitation of Tenant, or (2) arising out of the use of the Leased Premises or the Facility by Tenant, its employees, subtenants, licensees, concessionaires invited by Tenant or invitees. Tenant hereby agrees to indemnify and hold Landlord harmless from any liability, loss, expense or claim (including, but not limited to, attorneys’ fees) arising out of any such damage or injury. Landlord shall not be liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of other tenants of the Facility or of any other persons whomsoever. Further, any Tenant specifically agrees to be responsible for and indemnify and hold Landlord harmless from any and all damages or expenses of whatever kind arising out of or caused by a burglary, theft, vandalism, malicious mischief or other illegal acts performed in, at or from the Leased Premises. Tenant’s obligations under this Section shall survive the expiration or earlier termination of this Lease.

Section 7.07. Tenant Rights to Purchase. Tenant shall have the right of first refusal to purchase the Facility from Landlord or any subsequent owner as successor to Landlord on the terms and conditions substantially equivalent to the offered terms by a prospective purchaser. Tenant shall have the right of first refusal to lease space in the Facility previously leased by Byrd Enterprises, Inc. in the adult lounge area on the Second Floor of the indoor portion of the Facility.

ARTICLE VIII **UTILITIES, HEATING, AND COOLING**

Section 8.01. Utilities. Utilities for the Leased Premises shall be installed, maintained, and paid for as follows:

- (a) On or before the Rent Commencement Date, Landlord shall have utilities connected by the applicable utility company and shall pay the usual and customary activation fees for such utilities which shall be separately metered to Tenant. Any utilities that can be separately metered shall be separately metered through the Original Term and any Renewal Term. Further, if Landlord determines that Tenant is a substantial user of any utilities which are not separately metered, Landlord may require Tenant to install submeters for such utilities at its sole cost and expense.
- (b) Landlord shall maintain all utility conduits, piping, conductor, and other utility infrastructure, both which serve the Leased Premises and which are located off the Leased Premises. Tenant shall pay to Landlord Tenant's Pro Rata Share (as hereinafter defined) of all costs and expenses, except for the cost of installation, paid or incurred by Landlord in maintaining such utilities off the Leased Premises, as provided in Article XIV of this Lease.
- (c) Commencing on the Commencement Date, Landlord shall maintain all utility conduits, piping, conductors, and the like located in the Leased Premises and shall pay for utilities as follows:
 - (i) All utilities which are metered or submetered at Leased Premises shall be put in Tenant's name and paid by Tenant on a usage basis as metered, and
 - (ii) Utilities which are not metered or submetered at the Leased Premises shall be paid by Tenant on a pro rata basis as specified in Article XIV of this Lease.

Section 8.02. Discontinuance of Services. Landlord reserves, and shall at all times have, the right to cut off and discontinue, without notice to Tenant, water, electricity, heating and air conditioning, or other utilities and services whenever Tenant has failed, following any applicable cure periods, to pay any rental or other charges due under this Lease. Landlord shall under no circumstances be liable to Tenant in damages or otherwise for any interruption in service of water, electricity, heating, air conditioning, or other utilities and services caused by an unavoidable delay, by the making of any necessary repairs or improvements, by any cause beyond Landlord's control, or by discontinuance as provided in the preceding sentence of this Section.

ARTICLE IX **MAINTENANCE AND ALTERATIONS**

Section 9.01. Landlord's Obligations. Landlord shall keep in good repair, operate and maintain the Leased Premises, the Facility, and the utility systems serving the Common Areas.

Section 9.02. Tenant's Obligations. Tenant shall not suffer or permit any injury to the Leased Premises. Tenant shall immediately notify Landlord of any damage, injury, or disrepair of any part of the Leased Premises caused by or known to Tenant.

Section 9.03. Alterations and Additions. Tenant shall make no alterations or additions to any part of the Leased Premises without the prior written consent of Landlord. All such alterations and additions to the Leased Premises shall be made in accordance with all applicable laws, and shall remain for the benefit of Landlord; provided, however, that Landlord may elect by written notice to Tenant to require that Tenant, at its expense, remove at the expiration or earlier termination of this Lease all or a portion of the alterations or additions made by Tenant and repair any damage to the Leased Premises caused by such removal. Tenant's obligations under this Section shall survive the expiration or earlier termination of this Lease.

Section 9.04. Mechanic's Liens. Tenant shall not suffer or give cause for the filing of any mechanic's lien against the Leased Premises. In the event any mechanic's lien is filed against the Leased Premises or any part thereof for work claimed to have been done for, or material claimed to have been furnished to the Tenant, Tenant shall cause such mechanic's lien to be discharged of record within thirty (30) days after filing or, alternatively, Tenant shall furnish to Landlord (or any other entity designated by Landlord) within such thirty (30) day period a bond or other assurances reasonably acceptable to Landlord that such claimed indebtedness as finally determined will be paid by Tenant. Tenant shall indemnify and save harmless Landlord from all costs, losses, expenses, and attorneys' fees in connection with any such mechanic's lien.

ARTICLE X **INDEMNIFICATION AND INSURANCE**

Section 10.01. Indemnification. Tenant assumes all risks and responsibilities for accidents, injuries, or damages to persons or property (other than as provided in Section 10.02 below with respect to damage by fire and casualty), and agrees to indemnify and hold harmless Landlord from any and all claims, liabilities, losses, costs, and expenses (including attorneys' fees), arising from or in connection with Tenant's use and occupancy of the Leased Premises during the Lease Term.

Section 10.02. Landlord's Insurance. Landlord shall maintain public liability insurance against damage to persons and property in the Common Areas in reasonable amounts and shall agree to hold Tenant harmless for all liabilities covered by such insurance. Landlord shall carry during the Lease Term fire and extended coverage insurance on the Facility for at least its full insurable value. Landlord shall also maintain business interruption insurance and/or loss of "rental value" insurance in such amounts as Landlord shall reasonably deem necessary. Tenant agrees to reimburse Landlord for its proportionate share of the Insurance Premiums for all such insurance and the deductibles incurred by Landlord, as provided in Article XIV. Landlord shall ensure that Tenant is named as an additional insured on all policies required by this Section 10.02 and shall furnish to Tenant upon Tenant's request a certificate of insurance.

Section 10.03. Increase in Insurance Rates. If Tenant uses or permits the use of the Leased Premises or any part thereof in any manner so as to increase the cost of insurance to Landlord over and above the normal rates from time to time applicable to the Leased Premises for the use permitted under this Lease, Tenant shall pay to Landlord upon demand any such increase in the premiums for such insurance whether or not Landlord has consented to such use.

Section 10.04. Insurance - Tenant. Tenant shall, during the Lease Term, keep in full force and effect policies of public liability insurance (with contractual liability endorsement covering the matters set forth in Section 10.01 above), in companies and in a form acceptable to Landlord, with respect to the Leased Premises and the business operated by Tenant and/or any subtenants of Tenant in or at the Leased Premises, in which both Landlord and Tenant shall be named as parties covered thereby (covering Tenant as the named insured and identifying Landlord as an "additional insured"), providing for minimum limits

of comprehensive general liability and excess liability coverage of Seven Million Dollars (\$7,000,000) for which Tenant will provide minimum liability coverage of Two Million Dollars (\$2,000,000) per occurrence, subject to policy restrictions that may impose lower limits for claims involving brain injuries. Tenant shall, at its own expense, also keep in full force and effect policies of plate glass insurance, if plate glass is a part of Leased Premises, and fire and extended coverage, vandalism, malicious mischief and special extended coverage insurance in any amount adequate to cover the cost or replacement of all alterations, changes, decorations, additions, fixtures, and other improvements in the Leased Premises in the event of a loss, in companies and in form acceptable to Landlord. In addition, at all times during the Original Term and any Renewal Term, Tenant shall procure and maintain workers' compensation insurance and employers liability insurance with a limit not less than One Million Dollars (\$1,000,000) bodily injury each accident; One Million Dollars (\$1,000,000) bodily injury by disease – each person; and One Million Dollars (\$1,000,000) bodily injury to disease – policy limit. The insurance which Tenant is required to carry pursuant to this Section shall insure the full insurable value of all such improvements installed in and at the Leased Premises, on a reproduction cost basis, whether the same have been paid for entirely or partially by Tenant. Landlord and other tenants and occupants shall not be liable for any damage by fire or other casualty with respect to such improvements, no matter how caused, it being understood that Tenant will look solely to its insurers for reimbursement. All insurance maintained by Tenant as required pursuant to this Section 10.04 shall be carried in favor of Landlord and Tenant, as their respective interests may appear. Tenant shall, upon request, furnish Landlord with certificates of insurance, and all such insurance shall carry a provision providing that it will not be subject to cancellation, termination, or change except after at least thirty (30) days prior written notice to Landlord. If Tenant fails to comply with the above requirements, Landlord may obtain such insurance and keep same in effect, and Tenant shall pay Landlord all premium costs thereof upon demand.

Section 10.05. Tenant's Property. All property of Tenant shall be kept or stored in, upon, or about the Leased Premises at the sole risk of Tenant and Tenant shall hold Landlord harmless from and against any claims, costs, or expenses, including attorneys' fees, arising out of damage thereof.

Section 10.06. Waiver of Subrogation. All insurance policies maintained by Landlord or Tenant as provided in this Article X shall contain an agreement by the insurer waiving the insurer's right of subrogation against the other party to this Lease or agreeing not to acquire any rights of recovery which the insured has expressly waived prior to loss. Each of the parties hereto agrees that if the provision waiving subrogation in any of such policies of insurance requires that notice of such waiver be served upon the insurer, such notice shall be promptly served by the party obtaining such insurance.

ARTICLE XI

FIRE AND CASUALTY

If the Leased Premises become partially or totally destroyed by fire or other casualty insurable under full standard extended risk insurance, so as to become partially or totally untenable, the same shall be repaired or replaced at the expense of Landlord to the extent of available insurance proceeds. However, if more than fifty percent (50%) of the total rentable area of the Facility shall be destroyed or so damaged by fire or other casualty as to become wholly untenable, or if Landlord determines that the Facility cannot be restored within one hundred eighty (180) days, then Landlord may rebuild or put the Facility in good condition and fit for occupancy within a reasonable time after such destruction or damage, or it may give notice in writing to Tenant terminating the Lease. Within sixty (60) days after such casualty, Landlord shall either give Tenant notice of its intention to repair or rebuild or shall give Tenant notice of its intention to terminate the Lease. Any proceeds from the fire and extended coverage insurance not utilized by Landlord in restoring the Leased Premises shall be and remain the sole property of Landlord. Minimum Rent shall proportionately abate during the time that the Leased Premises are partially or totally unusable by reason of any such damage thereto.

ARTICLE XII
EMINENT DOMAIN

In the event that all or a part of the Leased Premises is taken or condemned for public or quasi-public use under any statute or by the right of eminent domain, or that, in lieu thereof, all or a part of the Leased Premises is sold to a public or quasi-public body under threat of condemnation, and such taking, condemnation, or sale renders the Leased Premises totally unsuitable for operation of the Tenant's business therein, this Lease shall terminate on the date possession of all or such part of the Leased Premises is transferred to the condemning authority. All rent shall be paid up to the date of transfer of possession to the condemning authority, and all compensation awarded or paid for taking or sale in lieu thereof shall belong to and be the sole property of Landlord, and Tenant shall have no claim against Landlord for the value of any unexpired portion of the Lease Term; provided, however, that Tenant shall be entitled to any separate award for personal property or moving costs, so long as such award shall not reduce the compensation paid or awarded to Landlord. In the event that only a portion of the Leased Premises is taken or condemned and such taking does not materially affect the business of Tenant, Tenant shall be entitled to a proportionate abatement of Minimum Rent but shall not be entitled to any award or payment made for such taking.

ARTICLE XIII
DEFAULT AND REMEDIES

Section 13.01. Events of Default. Each of the following shall be deemed a default by Tenant unless the same has been cured within sixty (60) calendar days following the default:

- (a) Tenant's failure to pay rent (including Minimum Rent and Additional Rent) as herein provided when due;
- (b) Tenant's failure to perform or observe any other terms, conditions, or covenants of this Lease to be performed or observed by Tenant;
- (c) Any change or modification in the use of the Leased Premises as set forth in Section 7.01 herein, or any substantial change in the quality of character of such use if such change adversely affects the Facility to be solely determined by Landlord;
- (d) Tenant's voluntary or intentional vacation or abandonment of the Leased Premises or any failure to keep the Leased Premises open for business as provided in Section 7.02 herein (without limiting the meaning of the terms "vacation or abandonment", the transfer of a substantial part of the operations, business, and personnel of Tenant to some other location shall be deemed to be a breach of this subsection, notwithstanding the fact that Tenant shall thereafter continue to pay the rent due under this Lease);
- (e) The sale of Tenant's leasehold interest hereunder pursuant to execution;
- (f) The adjudication of Tenant as a bankrupt;
- (g) The making by Tenant of a general assignment for the benefit of creditors;

- (h) The appointment of a receiver in equity for Tenant's property if such appointment is not vacated or otherwise terminated within sixty (60) days from the date of such appointment;
- (i) The appointment of a trustee, custodian, or receiver for Tenant's property in a reorganization, arrangement, or other bankruptcy proceeding if such appointment is not vacated or set aside within sixty (60) days from the date of such appointment;
- (j) Tenant's filing of a voluntary petition in bankruptcy or for reorganization or arrangement;
- (k) Tenant's filing of an answer admitting bankruptcy or agreeing to reorganization or arrangement;
- (l) Issuance of a criminal indictment or charge against Tenant; or
- (m) Dissolution or other termination of Tenant's corporate charter.

Section 13.02. Landlord's Rights Upon Tenant's Default. In the event of any default provided in the foregoing Section 13.01, not cured within the applicable cure period, without any further demand or notice Landlord, in addition to pursuing any other rights or remedies available at law or in equity, may:

- (a) Collect the past due amounts by withdrawing such amount from the Escrow Account;
- (b) Elect to terminate this Lease;
- (c) In the event that Tenant has failed to perform any of its covenants under this Lease other than a covenant to pay rent, perform the covenant or covenants of Tenant which are in default at Tenant's cost and expense (entering upon the Leased Premises for such purpose, if necessary); and Landlord's performance of any such covenant shall neither subject Landlord to liability for any loss, inconvenience, or damage to Tenant nor be constructed as a waiver of Tenant's default or of any other right or remedy of Landlord in respect of such default, or as waiver of any covenant, term, or condition of this Lease; or
- (d) immediately re-enter upon the Leased Premises, remove all persons and property therefrom, and store such property in a public warehouse or elsewhere at the sole cost and for the account of Tenant, all without service of notice or resort to legal process, without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby, and without such re-entry being deemed to terminate this Lease.

Section 13.03. Re-Letting. In the event Landlord re-enters upon the Leased Premises as provided in the foregoing Section 13.02 or takes possession of the Leased Premises, Landlord may either terminate this Lease, or from time to time without terminating this Lease, make alternations and repairs

reasonably necessary for the purpose of re-letting the Leased Premises and re-let the Leased Premises or any part thereof for such term or terms (which may extend beyond the Lease Term) at such rental and upon such other terms and conditions as Landlord in its reasonable discretion deems advisable. Upon each re-letting, all rentals received from such re-letting shall be applied first to payment of costs of such alterations and repairs; second to the payment of rent and any other indebtedness due and unpaid hereunder; and the remainder, if any, shall be applied in payment of future rent. Tenant shall be liable to Landlord for the difference between the Tenant's rent and other charges herein provided, and the rental and other charges received from such re-letting. Any such difference (or the entire rental in the event the Leased Premises is not relet) owing by Tenant for the entire remainder of the Lease Term shall be due and may be recovered at once, at the option of the Landlord, without awaiting the expiration of the Lease Term; in which case, recovery shall be based upon the best estimates of the amounts thereof available at that time without releasing Tenant from liability for payment of all amounts due under this Lease. No re-entry or taking of possessions by Landlord of the Leased Premises shall be construed as an election to terminate this Lease unless a written notice of termination is given to Tenant. Notwithstanding any re-letting without termination, Landlord may at any time thereafter elect to terminate this Lease for Tenant's previous default.

Section 13.04. Damages Upon Termination. In the event that Landlord at any time terminates this Lease for any default by Tenant, in addition to any other remedies Landlord may have, Landlord may recover from Tenant all damages Landlord may incur by reason of such default if such damages are established at the time of the default, including, but not limited to, costs of recovering the Leased Premises, attorneys' fees, and the value at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this Lease for the remainder of the Lease Term over the then reasonable rental value determined by Landlord of the Leased Premises for the remainder of the Lease Term. All such amounts shall be immediately due and payable by Tenant to Landlord.

Section 13.05. Indemnification Upon Default. Upon any default by Landlord or Tenant hereunder, the defaulting party shall be liable for and hereby agrees to apply any and all liabilities, losses, costs and expenses, including attorneys' fees, incurred by the non-defaulting party as a result of such default and in exercising the non-defaulting party's rights and remedies in connection with such default. Notwithstanding the foregoing, Landlord shall not be considered in default until it has received from Tenant written notice of such default and has not cured such default (i) within thirty (30) days with respect to any default which is curable within said time period, or (ii) for any default which is not capable of being cured until after thirty (30) days, Landlord has commenced such cure within thirty (30) days and thereafter diligently prosecutes such cure. In addition, prior to Landlord being in default, Tenant shall provide Prime Landlord and Landlord's mortgage lender with the same foregoing cure period, provided that Tenant has received written notice from Landlord as to the identity and address of such mortgage lender.

Section 13.06. Remedies Cumulative. The remedies of Landlord hereunder shall be cumulative, and no one of them shall be construed as exclusive or any other or of any remedy provided by law or in equity. The exercise of any one such right or remedy by Landlord shall not impair its standing to exercise any other such right or remedy.

Section 13.07. Non-Recourse Against ISA. Landlord acknowledges that the funds initially deposited in the Escrow Fund have been loaned to Tenant by its sole member, Indiana Soccer Association, Inc. ("ISA"). In consideration of ISA providing these funds, Landlord agrees that in the event of default under this Lease by Tenant, Landlord shall have no recourse and shall pursue no claims against ISA. Landlord's recourse under this Lease, if any, shall be against Tenant only.

Section 13.08. Tenant Termination Right. In the event Tenant fails to make a payment of Minimum Semi-Annual Rent as required hereunder and Landlord does not terminate this Lease as provided hereunder, Tenant may terminate this Lease by giving thirty (30) days advance written notice to the Landlord.

ARTICLE XIV **TENANT'S PAYMENT OF PRO RATA SHARE**

Section 14.01. Tenant's Pro Rata Share. Beginning on the Rent Commencement Date, Tenant shall pay as additional rent ("Additional Rent") to Landlord, in the manner provided in Section 14.02 herein, Tenant's Pro Rata Share of all charges, liabilities, costs, and expenses of every kind and nature paid or incurred (including appropriate reserves) by Landlord during the Lease Term for each Lease Year or Fractional Lease Year which are attributable to or relate to the Facility for the following:

- (a) Common Areas Costs, as described in Section 5.03;
- (b) Utilities, as described in Section 8.01;
- (c) Insurance Premiums and deductibles, as described in Section 10.02; and
- (d) Maintenance and Repairs, as described in Section 9.01.

(items 9(a) through (d) above are hereinafter referred to in the aggregate as "Operating Costs").

Section 14.02. Calculation and Payment. "Tenant's Pro Rata Share" of the Operating Costs shall be that portion of such Operating Costs which the Rentable Area of the Leased Premises and Secondary Office Space bears to the total rentable area in the Facility of 352,898 square feet, which is equal to a percentage share of 93.49%. Tenant shall pay on a monthly basis, in advance, Tenant's Pro Rata Share of the Operating Costs for each Lease Year or Fractional Lease Year, in any amount estimated by Landlord as provided in this Section. Landlord's estimate shall be made on the basis of the most recent Annual Operating Cost Statement, if available, adjusted to reflect reasonably anticipated increases or decreases of Operating Costs.

Section 14.03. Reconciliation. An Annual Operation Cost Statement prepared by Landlord shall be provided by Landlord to Tenant not later than April 1 of each calendar year setting forth in reasonable detail the actual Operating Costs paid or incurred by Landlord in the preceding Lease Year or Fractional Lease Year. The dates of any such statements may, at the option of the Landlord, be subject to change. Upon the furnishing of the Annual Operation Cost Statement, the installments of Additional Rent paid by Tenant for the subject calendar year shall be reconciled with the Additional Rent for such calendar year as set forth in the Annual Operation Cost Statement. If the Additional Rent for the calendar year as set forth in the Annual Operation Cost Statement exceeds the total of the installments of Additional Rent paid by Tenant for such calendar year, then Tenant shall pay the amount of such excess to Landlord within thirty (30) days after Landlord delivers to Tenant the Annual Operation Cost Statement. If the total of the installments of Additional Rent paid by Tenant for the calendar year exceeds the Additional Rent for the calendar year as set forth in the Annual Operation Cost Statement, then Tenant shall receive a credit against the monthly installments of Additional Rent subsequently accruing until such excess is exhausted or, if this Lease has been terminated other than by reason of a default by Tenant, such excess shall be refunded to Tenant promptly upon determination of the proper amount thereof. In no event shall the

Minimum Rent be decreased. Tenant shall have the right to audit the Annual Operation Cost Statement, at its expense.

ARTICLE XV **ACCESS TO LEASED PREMISES**

Tenant shall permit Landlord and its agents and employees to enter in and upon the Leased Premises at all reasonable times to inspect and examine the Leased Premises, to show the Leased Premises to prospective purchasers, mortgagees, or tenants, or to make such repairs that Landlord may deem necessary or desirable, provided Landlord shall have access to the Leased Premises without advanced notice and without interfering with Tenant's quiet enjoyment should an emergency situation occur at the Leased Premises.

ARTICLE XVI **LIMITATION OF LANDLORD'S LIABILITY**

Tenant agrees that Tenant shall look solely to Landlord's interest in and to the Facility, subject to prior rights of any mortgagee of the Facility, for satisfaction of any judgment (or other judicial process) requiring payment of money by Landlord in the event of default or breach by Landlord of any of the covenants, terms or conditions of this Lease to be observed or performed by Landlord, and that no other assets of Landlord shall be subject to levy, execution, or of the process for satisfaction of Tenant's remedies. The term "Landlord", as used in this Lease in relation to covenants, agreements, and conditions to be observed and performed by Landlord, shall be limited to mean and include only the owner or owners from time to time of Landlord's interest in this Lease. In the event of any transfer or transfers of such interest (except a transfer for security), Landlord named herein (or the transferor, in the case of a subsequent transfer) shall, after the date of such transfer, be released from all liability for the performance of any covenant, agreement, and conditions under this Lease, occurring prior to the date of such transfer. This Lease shall bind Landlord, its successors and assigns only during and in respect of their respective successive periods of ownership of the Facility.

ARTICLE XVII **MISCELLANEOUS**

Section 17.01. Sublease. This Sublease and all the rights of parties hereunder are subject and subordinate to the Master Lease. Each party agrees that it will not, by its act or omission to act, cause a default under the Master Lease. In furtherance of the foregoing, the parties hereby confirm, each to the other, that it is not practical in this Sublease agreement to enumerate all of the rights and obligations of the various parties under the Master Lease and specifically to allocate those rights and obligations in this Sublease. Accordingly, in order to afford to Tenant the benefits of this Sublease and of those provisions of the Master Lease which by their nature are intended to benefit the party in possession of the Premises, and in order to protect Landlord against a default by Tenant which might cause a default or event of default by Landlord under the Master Lease:

A. Provided Tenant shall timely pay all Rent when and as due under this Sublease, Landlord shall pay, when and as due, all base rent, additional rent and other charges payable by Landlord to Prime Landlord under the Master Lease;

B. Except as otherwise expressly provided herein, Landlord shall perform its covenants and obligations under the Master Lease which do not require for their performance possession of the Premises and which are not otherwise to be performed hereunder by Tenant on

behalf of Landlord. For example, Landlord shall at all times keep in full force and effect all insurance required of Landlord as tenant under the Master Lease.

C. Except as otherwise expressly provided herein, Tenant shall perform all affirmative covenants and shall refrain from performing any act which is prohibited by the negative covenants of the Master Lease, where the obligation to perform or refrain from performing is by its nature imposed upon the party in possession of the Premises. If practicable, Tenant shall perform affirmative covenants which are also covenants of Landlord under the Master Lease at least five (5) days prior to the date when Landlord's performance is required under the Master Lease. Landlord shall have the right to enter the Premises to cure any default by Tenant under this Section.

D. Landlord shall not agree to an amendment to the Master Lease which might have an adverse effect on Tenant's occupancy of the Premises or its use of the Premises for their intended purpose, unless Landlord shall first obtain Tenant's prior written approval thereof.

E. Landlord hereby grants to Tenant the right to receive all of the services and benefits with respect to the Premises which are to be provided by Prime Landlord under the Master Lease. Landlord shall have no duty to perform any obligations of Prime Landlord which are, by their nature, the obligation of an owner or manager of real property. For example, Landlord shall not be required to provide the services or repairs which the Prime Landlord is required to provide under the Master Lease. Landlord shall have no responsibility for or be liable to Tenant for any default, failure or delay on the part of Prime Landlord in the performance or observance by Prime Landlord of any of its obligations under the Master Lease, nor shall such default by Prime Landlord affect this Sublease or waive or defer the performance of any of Tenant's obligations hereunder except to the extent that such default by Prime Landlord excuses performance by Landlord, under the Master Lease. Notwithstanding the foregoing, the parties contemplate that Prime Landlord shall, in fact, perform its obligations under the Master Lease and in the event of any default or failure of such performance by Prime Landlord, Landlord agrees that it will, upon notice from Tenant, make demand upon Prime Landlord to perform its obligations under the Master Lease and, provided that Tenant specifically agrees to pay all costs and expenses of Landlord and provides Landlord with security reasonably satisfactory to Landlord to pay such costs and expenses, Landlord will take appropriate legal action to enforce the Master Lease.

Section 17.02. Performance Escrow. Landlord requires that Tenant support and secure its duties, obligations and liabilities under this Lease by establishing an escrow account in which it will deposit funds and security available and for the benefit of Landlord. Upon the Effective Date, Tenant shall deposit into the escrow account \$500,000 in cash. Subject to the terms described in Schedule F, an additional \$100,000 deposit shall be made not later than December 31, 2016; an additional \$150,000 deposit shall be made not later than December 31, 2017; and an additional \$250,000 shall be made not later than December 31, 2018. The escrow account will stay in place until December 31, 2022. If as of such time, Tenant has complied with and fulfilled its duties, obligations and liabilities under this Lease, the escrow account will fully and irrevocably revert to Tenant's ownership. See Exhibit F hereto as to this schedule and amounts to be deposited.

Section 17.03. Assignment and Subletting. Tenant shall not assign this Lease or sublet the whole or any part of the Leased Premises, or permit any other persons, including concessionaires or licensees, to occupy the same without the prior written consent of Landlord. Such consent shall not be implied from references in this Lease to assignees, sublessees, concessionaires, or licensees. The consent by Landlord to any assignment or subletting shall not constitute a waiver of the requirement for such

consent to any subsequent assignment or subletting. Any such assignment or subletting, even with the consent of Landlord, shall not relieve Tenant from liability for payment of rent or other sums herein provided or from the performance of any other obligations under this Lease until the later of the second lease year or one (1) year after the assignment or sublease with the consent of Landlord. The acceptance of rent from any other person shall not be deemed to be a waiver of any other provisions of this Lease or a consent to the assignment of this Lease or the subletting of the Leased Premises. Any transfer of this Lease by operation of law (including, but not limited to, a transfer as a result of a merger, consolidation, or liquidation of Tenant if Tenant is not an individual) shall constitute an assignment for purposes of this Lease.

An assignment shall include any sale or transfer, whether by operation of law or otherwise, of fifty percent (50%) or more of the ownership of an entity, or in the event the present owner(s) shall, singly or collectively, cease to own, directly or indirectly, the controlling interest in the voting ownership of Tenant and shall include, in the case of limited liability companies and partnerships, any change in the Manager or General Partner.

Without in any way limiting Landlord's right to refuse to give consent to any assignment or subletting of this Lease, Landlord reserves the right to refuse to give such consent if in Landlord's reasonable opinion the proposed use of the Leased Premises or quality of merchandising operation in the Leased Premises or the Facility is or may be in any way adversely affected, if the financial worth of the proposed assignee or subtenant is less than that of Tenant or if the value of the Leased Premises has changed or will change in such a manner that the proposed assignment or sublease is contrary to the interests of or unacceptable to Landlord. Tenant agrees to reimburse Landlord for reasonable accounting and attorneys' fees incurred in conjunction with the processing and documentation of any such requested transfer, assignment, subletting, licensing or concession agreement, change of ownership or hypothecation of this Lease or Tenant's interest in and to the Leased Premises.

Section 17.04. Estoppel Certificates. Prior to opening the Leased Premises for business, Tenant shall deliver to Landlord a written statement in recordable form certifying (if such is the case) that Landlord has completed construction of the improvements constituting part of the Leased Premises in accordance with its obligations contained herein, that Tenant has accepted possession of the Leased Premises, that this Lease is in full force and effect and has not been assigned, modified, supplemented, or amended, and indicating the Commencement Date and the dates to which the Minimum Rent and other charges have been paid in advance, if any. At any time and from time to time, Tenant agrees, within ten (10) days of any request in writing from Landlord, to execute, acknowledge, and deliver to Landlord a statement in writing certifying, if this be the fact, that this Lease is unmodified, in full force and effect, and there are no defenses or offsets thereto (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and the dates to which the Minimum Rent and any other additional rentals have been paid.

Section 17.05. Subordination and Attornment. Tenant shall, upon Landlord's request, subordinate this Lease to the lien of any mortgage now or hereafter placed upon Landlord's interest in the Leased Premises or upon any buildings hereafter placed upon the land of which the Leased Premises form a part. In addition, upon the request of Landlord, Tenant shall subordinate its rights hereunder to the lien of any mortgage or mortgages or the lien or security interest from any other method of financing or refinancing (hereafter collectively referred to as "Mortgage") now or hereafter against the Facility and the land upon which it is situated, Landlord's interest therein, or the Leased Premises and the buildings now or thereafter built or to be built in the Facility, and to all renewals, modifications, replacements, consolidations, and extensions thereof. Tenant shall execute and deliver, upon demand, such further instrument or instruments subordinating this Lease to the lien of any such Mortgage, provided any subordination shall be upon the express condition that this Lease and any extension or renewal hereof

shall remain in full force and effect during the Lease Term, notwithstanding any default in the payment and performance of such Mortgage and notwithstanding any foreclosure proceedings with respect thereto; provided, however, that Tenant shall perform all of the terms, covenants, and conditions of this Lease by it undertaken to be performed. Tenant shall, in the event that any proceedings are brought for the foreclosure of any Mortgage made by Landlord covering that Leased Premises, attorn to the purchaser upon such foreclosure and recognize such purchaser as Landlord under this Lease.

Section 17.06. Covenant of Quiet Enjoyment. Landlord agrees that if Tenant performs all the covenants and agreements herein provided to be performed by Tenant, Tenant shall, at all times during the Lease Term, have the peaceable and quiet enjoyment of possession of the Leased Premises without any manner of hindrance from Landlord or any persons claiming under Landlord. This Lease does not guarantee a continuance of light and air over the Leased Premises or any property adjoining the Leased Premises.

Section 17.07. Accord and Satisfaction. No payment by Tenant or receipt by Landlord of a lesser amount than the rent herein stipulated shall be deemed to be other than on account of the earliest stipulated rent, nor shall any endorsement or statement on the check or letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept any such check or payment without prejudice to Landlord's right to recover the balance of such rent or to pursue any other remedy provided in this Lease.

Section 17.08. No Option. The submission of this Lease for examination by Tenant shall not constitute a reservation of or option for the Leased Premises. This Lease shall become effective only upon execution and delivery thereof by Landlord and Tenant.

Section 17.09. Memorandum of Lease. The parties hereto shall not record this Lease, but each party shall execute upon request of the other a "Memorandum of Lease" suitable for recording. The party requesting the Memorandum shall pay all recording costs in connection therewith.

Section 17.10. Relationship of Parties. Nothing contained herein, including, but not limited to, the method of computing rent, shall be deemed or construed by the parties hereto, or by any third party, as creating between the parties hereto the relationship of principal and agent, partnership, joint venture, or any relationship other than the relationship of landlord and tenant.

Section 17.11. Waiver. The parties hereto may, by a writing signed by both of the parties, waive the performance by any party of any of the provisions to be performed by such party under this Lease. The failure of any party hereto at any time to insist upon the strict performance of any provision of this Lease shall not be construed as a waiver or relinquishment of the right to insist upon strict performance of such provision at a future time. The waiver by either party hereto of a breach of or noncompliance with any provision of this Lease shall not operate or be construed as a continuing waiver or a waiver of any other or subsequent breach or noncompliance hereunder.

Section 17.12. Severability. The invalidity or unenforceability of any particular provision of this Lease shall not affect the other provisions, and this Lease shall be construed in all respects as if such invalid or unenforceable provision had not been contained herein.

Section 17.13. Binding Effect. This Lease and all of the terms and provisions hereof shall inure to the benefit of and be binding upon, the respective heirs, executors, administrators, successors and assigns of Landlord and Tenant except as otherwise expressly provided herein. Nothing in this Lease, express or implied, is intended to confer upon any person, other than the parties hereto, except as provided above, any rights, remedies, obligations, or liabilities under or by reason of this Lease.

Section 17.14. Construction. This Lease shall be construed and governed in accordance with the laws of the State of Indiana, without regard to its conflict of law provisions. Whenever in this Lease a singular word is used, it shall also include the plural wherever required by the contract and vice versa. All references in this Lease to periods of days shall be construed to refer to calendar, not business, days. The captions in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions of this Lease. The Exhibits hereto are incorporated by reference and made a part hereof with the same effect as if set out in fully herein.

Section 17.15. Entire Agreement; Amendments. This instrument contains the entire agreement between the parties hereto with respect to the subject matter hereof. All representations, promises and prior or contemporaneous undertakings between such parties are merged into and expressed in this instrument, and any and all prior agreements between such parties are hereby canceled. The agreements contained in this instrument shall not be amended, modified, or supplemented except by a written agreement duly executed by both Landlord and Tenant.

Section 17.16. Survival and Assignment. The terms and Conditions of this agreement shall survive any change in Landlord and shall govern the relationship between the Landlord and the Tenant. Landlord shall not transfer, convey, or sell to a third party any right or obligation under this Lease unless that third party accepts and agrees to an assignment of Landlord's obligations to Tenant under this lease.

Section 17.17. Notices. Any notice, request, demand, waiver, consent, approval or other communication which is required or permitted hereunder shall be in writing and shall be deemed given only if delivered personally or by a reputable courier service (with all expenses of delivery being prepaid) or sent by registered or certified mail, postage prepaid, as follows:

Landlord:	City of Westfield, Indiana 2728 E. 171st Street Westfield, Indiana 46074 Attn: Todd Burtron, Chief of Staff
With a copy to: (Which shall not constitute notice)	Krieg DeVault LLP 12800 N. Meridian Street, Suite 300 Carmel, Indiana 46032 Attn: Brian J. Zaiger, Esq.
Tenant:	Indiana Sports Properties, LLC 5 East 191 st Street Westfield, Indiana 46074 Attn: Don Rawson, President and CEO

or to such other address as the addressee may have specified in a notice duly given to the sender as provided herein. Such notice, request, demand, waiver, consent, approval or other communication will be deemed to have been given as of the earlier of actual receipt or two (2) business days after being so delivered or mailed.

Section 17.18. Counterparts. This Lease may be executed in separate counterparts, each of which when so executed shall be an original, but all of such counterparts shall together constitute one and the same instrument.

Section 17.19. Brokers. Landlord and Tenant covenant, warrant and represent that no broker was involved in bringing about or consummating this Lease, and that Landlord and Tenant had no conversations or negotiations with any broker concerning the leasing of the Leased Premises. Tenant agrees to indemnify and hold harmless Landlord against and from any claims for any brokerage commissions and all costs, expenses and liabilities in connection therewith including, but not limited to, attorneys' fees and expenses arising out of any conversations or negotiations had by Tenant with any broker. Landlord agrees to indemnify and hold harmless Tenant against and from any claims for any brokerage commissions and all costs, expenses and liabilities in connection therewith including, but not limited to, attorneys' fees and expenses arising out of any conversations or negotiations had by Landlord with any broker.

[signature page follows]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year first above written.

LANDLORD:

CITY OF WESTFIELD, INDIANA

By: _____

Printed: _____

Title: _____

TENANT:

INDIANA SPORTS PROPERTIES, LLC

By: _____
Don Rawson, President and CEO

KD_6700502_8.doc

List of Exhibits

Exhibit A	Legal Description
Exhibit B	Depiction of the Facility and Leased Premises
Exhibit C	Building Square Footage
Exhibit D	Rules and Regulations
Exhibit E	Grand Park Indoor Multi-Purpose Facility Escrow Addition Schedule
Exhibit F	Grand Park Indoor Multi-Purpose Facility Escrow Addition Schedule
Exhibit G	Rent Schedule

EXHIBIT A

Legal Description of Facility

INDOOR SOCCER FACILITY
GRAND PARK
WESTFIELD, INDIANA
7.15.2014

A PART OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 19 NORTH, RANGE 3 EAST, HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 89 DEGREES 54 MINUTES 07 SECONDS WEST 1,196.82 FEET ALONG THE NORTH LINE OF SAID QUARTER SECTION; THENCE SOUTH 00 DEGREES 00 MINUTES 07 SECONDS EAST 40.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 00 DEGREES 00 MINUTES 07 SECONDS EAST 131.49 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 639.08 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 380.00 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 101.94 FEET; THENCE SOUTHWESTERLY 221.77 FEET ALONG AN ARC TO THE RIGHT HAVING A RADIUS OF 336.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 30 DEGREES 53 MINUTES 39 SECONDS WEST AND A LENGTH OF 217.77 FEET; THENCE SOUTH 45 DEGREES 36 MINUTES 00 SECONDS EAST 28.62 FEET; THENCE SOUTHWESTERLY 149.81 FEET ALONG AN ARC TO THE RIGHT HAVING A RADIUS OF 364.50 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 61 DEGREES 09 MINUTES 11 SECONDS WEST AND A LENGTH OF 148.75 FEET; THENCE NORTH 17 DEGREES 04 MINUTES 23 SECONDS WEST 20.00 FEET; THENCE WESTERLY 96.13 FEET ALONG AN ARC TO THE RIGHT HAVING A RADIUS OF 348.57 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 80 DEGREES 52 MINUTES 39 SECONDS WEST AND A LENGTH OF 95.82 FEET; THENCE NORTH 89 DEGREES 54 MINUTES 40 SECONDS WEST 539.70 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 20 SECONDS WEST 20.00 FEET; THENCE NORTH 89 DEGREES 54 MINUTES 40 SECONDS WEST 42.79 FEET; THENCE NORTHWESTERLY 132.02 FEET ALONG AN ARC TO THE RIGHT HAVING A RADIUS OF 80.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF NORTH 47 DEGREES 16 MINUTES 39 SECONDS WEST AND A LENGTH OF 117.54 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 122.52 FEET; THENCE NORTHWESTERLY 172.79 FEET ALONG AN ARC TO THE LEFT HAVING A RADIUS OF 110.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF NORTH 45 DEGREES 00 MINUTES 00 SECONDS WEST AND A LENGTH OF 155.56 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST 5.92 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 41.56 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 115.00 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 451.06 FEET; THENCE NORTH 89 DEGREES 54 MINUTES 07 SECONDS EAST 250.92 FEET TO THE POINT OF BEGINNING AND CONTAINING 14.501 ACRES, MORE OR LESS.

Depiction of the Facility and Leased Premises

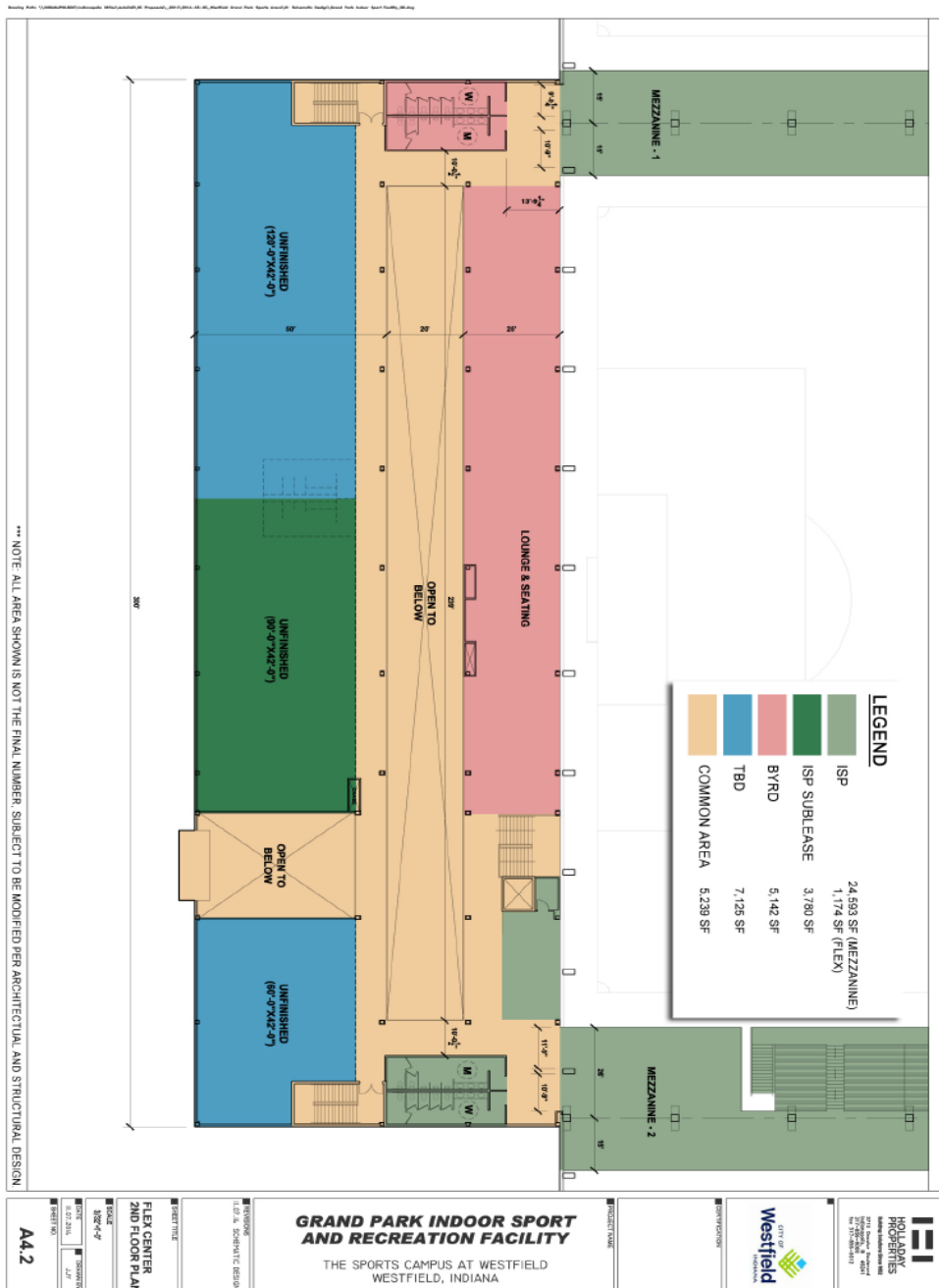


EXHIBIT C

Building Square Footage

Building Square Footage	Leased Premises
Fields	295,650 sf
Flex Center	
1st Floor – Restaurant	0 sf
1st Floor - Restaurant Restroom	0 sf
1st Floor – Office	1,920 sf
1st Floor - Storage / Staging	1,325 sf
1st Floor - Referee Room	375 sf
1st Floor - Fields Restrooms/Shower	2,836 sf
2nd Floor - Seating & Bar	0 sf
2nd Floor - Seating & Bar Restroom	0 sf
2nd Floor – Office	0 sf
2nd Floor - Multi-purpose- A	0 sf
2nd Floor - Multi-purpose- B	0 sf
2nd Floor - Office Restroom	0 sf
2nd Floor - Mezzanine Viewing Area	536 sf
2nd Floor - Mezzanine Restroom	660 sf
2nd Floor – Mezzanine	24,975 sf
1st Floor - Common Area	10,406 sf
2nd Floor - Common Area	4,761 sf
2nd Floor - Atrium (Common Area)	5,674 sf
Total Rentable Square Feet	349,118 sf
	92.41%

Building Square Footage		SECONDARY OFFICE
Fields		0 sf
Flex Center		
2nd Floor - Multi-purpose- A		3,780 sf
Total Rentable Square Feet		3,780 sf
		1.08%

EXHIBIT D

Rules and Regulations

Tenant agrees for itself, its employees, agents, clients, customers, invitees and guests, to comply with the following rules and regulations. Tenant agrees that Landlord may amend, modify or delete any of the following rules and regulations or add new and additional reasonable rules and regulations for the use and care of the Leased Premises, the parking and other Common Areas and all of the Facility. Tenant agrees to comply with all rules and regulations and upon notice to Tenant from Landlord any modifications thereto. The breach by Tenant of any of these rules and regulations or any subsequent modifications, amendments or additions shall constitute a default by Tenant under the terms of this Lease.

Tenant covenants and agrees with Landlord that:

[Insert any rules or regulations of the Facility]

EXHIBIT E

Grand Park Indoor Multi-Purpose Facility City of Westfield Revenue Share¹

Years 1-4		0%
Years 5-20	< \$100,000	0%
	\$100,000 - \$250,000	10%
	\$250,000 - \$400,000	15%
	>\$400,000	20%

¹Revenue to be shared is determined on a net/net basis under the following formula:

ISP indoor facility revenue – (ISP indoor
facility expenses + ISP escrow additions) =
net/net available for revenue share.

EXHIBIT F

Grand Park Indoor Multi-Purpose Facility **Escrow Addition Schedule**

Year 1	Net revenue not to exceed \$100,000
Year 2	Net revenue not to exceed \$150,000 plus shortfall, if any, for Year 1
Year 3	Net revenue not to exceed \$250,000 plus shortfall, if any, for Years 1 and 2
Year 4	Net revenue not to exceed shortfall for Years 1, 2 and 3

EXHIBIT G

Rent

for the Leased Premises:

<u>Period Following Commencement Date</u>	<u>Lease Year</u>	<u>Minimum Rent Payment</u>
Commencement Date - January 1 st , 2016	Year One	-0-
Rent Commencement - July 1 st , 2016		\$817,581.50
January 1 st , 2017 July 1 st , 2017	Year Two	\$817,581.50 \$817,581.50
January 1 st , 2018 July 1 st , 2018	Year Three	\$817,581.50 \$817,581.50
January 1 st , 2019 July 1 st , 2019	Year Four	\$817,581.50 \$817,581.50
January 1 st , 2020 July 1 st , 2020	Year Five	\$817,581.50 \$817,581.50
January 1 st , 2021 July 1 st , 2021	Year Six	\$817,581.50 \$817,581.50
January 1 st , 2022 July 1 st , 2022	Year Seven	\$817,581.50 \$817,581.50
January 1 st , 2023 July 1 st , 2023	Year Eight	\$817,581.50 \$817,581.50
January 1 st , 2024 July 1 st , 2024	Year Nine	\$817,581.50 \$817,581.50
January 1 st , 2025 July 1 st , 2025	Year Ten	\$817,581.50 \$817,581.50
December 31 st , 2025	Year Ten	\$817,581.50

for the Secondary Office Space (exclusive of the Leased Premises):

<u>Period Following Commencement Date</u>	<u>Lease Year</u>	<u>Minimum Rent Payment</u>
Commencement Date - January 1 st , 2016	Year One	-0-
Rent Commencement - July 1 st , 2016		\$22,759.00
January 1 st , 2017 July 1 st , 2017	Year Two	\$22,759.00 \$22,759.00
January 1 st , 2018 July 1 st , 2018	Year Three	\$22,759.00 \$22,759.00
January 1 st , 2019 July 1 st , 2019	Year Four	\$22,759.00 \$22,759.00
January 1 st , 2020 July 1 st , 2020	Year Five	\$22,759.00 \$22,759.00
January 1 st , 2021 July 1 st , 2021	Year Six	\$22,759.00 \$22,759.00

January 1 st , 2022	Year Seven	\$22,759.00
July 1 st , 2022		\$22,759.00
January 1 st , 2023	Year Eight	\$22,759.00
July 1 st , 2023		\$22,759.00
January 1 st , 2024	Year Nine	\$22,759.00
July 1 st , 2024		\$22,759.00
January 1 st , 2025	Year Ten	\$22,759.00
July 1 st , 2025		\$22,759.00
December 31 st , 2025	Year Ten	\$22,759.00

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT ("Lease") is made and entered into as of the ____ day of _____, 2014 (the "Effective Date"), by and between the **CITY OF WESTFIELD, INDIANA** ("Landlord") and **BYRD ENTERPRISES, INC.**, an Indiana corporation ("Tenant"). Landlord is the lessee under that certain Lease Agreement, dated November 5, 2014, from Holladay Properties Grand Park Sports I LLC ("Master Lease") for the entire facility and real property located at 19000 Grand Park Boulevard, Westfield, Indiana.

W I T N E S S E T H :

ARTICLE I **LEASED PREMISES AND COMMON AREAS**

Section 1.01. Leased Premises. Landlord hereby subleases to Tenant, and Tenant hereby subleases from Landlord, a portion of the integrated indoor soccer facility located at 19000 Grand Park Boulevard, Westfield, Indiana, on the real estate described on Exhibit A attached hereto and incorporated herein by reference (the "Facility"). The portion of the Facility hereby leased to Tenant is depicted and designated as the "Food Service" area on the mezzanine level, the "Lounge" on the second floor, and the dedicated restrooms on the second floor, all as shown on the attached Exhibit B (the "Leased Premises"), containing approximately Seventeen Thousand Forty (17,040) rentable square feet in the areas listed on Exhibit C attached hereto ("Rentable Area"). Landlord shall be entitled to change or modify the building, Common Areas (as hereinafter defined) or other improvements and facilities in the Facility, provided that neither the Leased Premises nor the general character of the Facility shall be materially changed.

Section 1.02. Use of Common Areas. Landlord grants to Tenant, its agents, employees, invitees, licensees and concessionaires the non-exclusive right during the Lease Term (as hereinafter defined) to use the parking areas and ingress, egress and access roads and the Common Areas as shall be made available by Landlord in its sole discretion and subject to the Rules and Regulations of the Facility. Tenant's use of the Common Areas shall be in common with others entitled to the use thereof and subject to the provisions of this Lease.

Section 1.03. Master Lease. Landlord is the tenant under the Master Lease (the "Master Lease") with the Prime Landlord identified above. Landlord represents and warrants to Tenant that (a) Landlord has delivered to Tenant a full and complete copy of the Master Lease and all other agreements between Prime Landlord and Landlord relating to the leasing, use, and occupancy of the Premises, (b) the Master Lease is, as of the date hereof, in full force and effect, and (c) no event of default has occurred under the Master Lease and, to Landlord's knowledge, no event has occurred and is continuing which would constitute an event of default but for the requirement of the giving of notice and/or the expiration of the period of time to cure

ARTICLE II **LEASE TERM**

Section 2.01. Term. The term of this Lease shall be for the period commencing on the "Commencement Date" (as hereinafter defined) and continuing for one hundred twenty (120) months from the Commencement Date ("Term"). The "Commencement Date" shall be November __, 2014. The "Rent Commencement Date" shall be the date on which the Leased Premises are available for occupancy by Tenant. The parties shall execute a confirmation of the Lease Term reflecting the actual Commencement Date and Rent Commencement Date. As used in this Lease, the term "Lease Year" shall mean a calendar year, the first Lease Year commencing on the first day of January following the Rent

Commencement Date, and each succeeding Lease Year commencing on the anniversary of the first Lease Year. A "Fractional Lease Year" is defined to mean the period from the Rent Commencement Date to December 31 of such year and the period of the Lease Term following the last full calendar Lease Year, whether the Lease expires by its terms or otherwise.

Section 2.02. Renewal. If Tenant is not in default of any of the terms and conditions of this Lease and there is not any fact or circumstance which, with the passage of time or the giving of notice or both, could constitute a default hereunder, then Tenant shall have the option to renew this Lease for two (2) additional terms of five (5) years each (each a "Renewal Term"), the first of which shall commence upon the expiration of the Term and the second of which shall commence upon the expiration of the first Renewal Term. All of the terms, provisions, conditions, covenants, and obligations of this Lease shall apply during the Renewal Terms, except that the Minimum Rent shall be as set forth in Section 4.06 herein. The renewal option shall be exercised by Tenant providing written notice to Landlord of Tenant's intent to exercise its renewal option not less than one hundred eighty (180) days prior to the expiration of the Original Term or the first Renewal Term, as applicable. If notice is not given in the manner provided herein within the time specified, this option to renew shall expire. The Original Term and any Renewal Terms are referred to herein collectively as the "Lease Term".

Section 2.03. Holding Over. If Tenant holds over and remains in possession of the Leased Premises after the expiration or earlier termination of this Lease with the consent of Landlord and without the execution of a new lease, such holding over and continued possession shall, if rent is paid by Tenant and accepted by Landlord, constitute a month to month lease upon the terms (other than length of Term) herein specified, except with rental at the rate of one hundred fifty percent (150%) of the last month's rent, which holdover may at any time be terminated by either party upon thirty (30) days written notice given to the other party. If Tenant remains in possession of the Leased Premises after the expiration or earlier termination of this Lease without the consent of Landlord, Tenant shall be deemed to be occupying the Leased Premises as a tenant at sufferance with rent of two hundred percent (200%) of the last month's rent and otherwise subject to all the conditions, provisions and obligations of this Lease insofar as they are applicable to a tenancy at sufferance.

ARTICLE III **CONSTRUCTION OF IMPROVEMENTS**

Section 3.01. Landlord's Work. Landlord shall substantially complete construction and furnishing all appliances, fixtures, and equipment to the Facility and the Leased Premises, subject to minor punch list items, on or before the Rent Commencement Date.

Section 3.02. Fixtures. All of Tenant's trade fixtures and equipment installed in or at the Leased Premises may be removed by Tenant upon the expiration or earlier termination of this Lease, provided that (i) Tenant shall repair any damage to the Leased Premises or the Facility caused by such removal, and (ii) there is no default nor any fact or circumstance which, with the passage of time or the giving of notice or both, could become a default hereunder by Tenant at such time. After the expiration or earlier termination of this Lease, Landlord shall have the right to remove Tenant's leasehold improvements, trade fixtures and equipment and to have any damage from such removal repaired at Tenant's sole cost and expense. Tenant's obligation to pay such expenses to Landlord shall survive the expiration or earlier termination of this Lease.

Section 3.03. Period Prior to Commencement Date. Landlord shall have no responsibility or liability whatsoever for any loss or damage to any of Tenant's leasehold improvements, fixtures, equipment or inventory installed or left in the Leased Premises prior to the Rent Commencement Date. Tenant's entry upon and occupancy of the Leased Premises prior to the Rent Commencement Date shall

be governed by and subject to the provisions, covenants and conditions of this Lease with respect to use, insurance, indemnity, remedies and mechanic's liens.

Section 3.04. Build Out Obligations. Landlord shall undertake completion of the Leased Premises at its sole cost and expense, including painting and signage, subject to the following conditions: (a) the alterations and/or improvements shall be made in accordance with plans and specifications approved in advance in writing by Landlord and Tenant, which approval Tenant will not unreasonably withhold; (b) the alterations and/or improvements may be supervised by Landlord or its agents or representatives which may charge reasonable inspection fees; (c) the alterations and/or improvements shall be made pursuant to a valid building permit and in accordance with all applicable laws, rules, regulations, orders and requirements of public authorities. All alterations and improvements to the Leased Premises shall become a part of the Leased Premises and shall be the property of Landlord and shall be surrendered by Tenant with the remainder of the Leased Premises upon termination of this Lease. Landlord agrees to submit to Tenant, within thirty (30) days from the Effective Date, complete plans and specifications, including engineering, mechanical and electrical work plans, in compliance with all applicable statutes, ordinances, regulations and codes. Such plans and specifications shall be paid for by Landlord.

ARTICLE IV **RENT**

Section 4.01. Minimum Rent. Tenant shall pay to Landlord as minimum rent for the Leased Premises the following sums per year ("Minimum Annual Rent") in advance in equal monthly installments ("Minimum Monthly Rent"):

<u>Period Following Commencement Date</u>	<u>Minimum Annual Rent</u>	<u>Minimum Monthly Rent</u>
Commencement Date – Rent Commencement Date*	N/A	N/A
Rent Commencement Date – End of Lease Year 2	\$352,676	\$29,389.66
Lease Year 3	\$359,729.52	\$29,977.46
Lease Year 4	\$366,924.11	\$30,577.01
Lease Year 5	\$385,270.31	\$32,105.86
Lease Year 6	\$404,533.82	\$33,711.15
Lease Year 7	\$424,760.51	\$35,396.71
Lease Year 8	\$445,998.53	\$37,166.54
Lease Year 9	\$468,298.45	\$39,024.87
Lease Year 10	\$491,713.37	\$40,976.11

* Notwithstanding any contrary terms or provisions contained in this Lease, the Minimum Rent due between the Commencement Date and the Rent Commencement Date during the Original Term of this Lease shall be abated; provided, however, that upon the occurrence of a default hereunder by Tenant, then in addition to the remedies available to Landlord provided under this Lease or under applicable law, Landlord shall be entitled to recover, and Tenant shall immediately pay to Landlord, any previously abated Minimum Rent otherwise due and payable under this Lease.

The Minimum Monthly Rent shall be payable in advance commencing on the Rent Commencement Date and thereafter on the first day of every calendar month during the Lease Term,

without relief from valuation or appraisal laws. If the Rent Commencement Date is not the first day of a calendar month, Tenant shall pay on the Rent Commencement Date a prorated portion of the Minimum Monthly Rent for the first partial calendar month of the Lease Term. Hereinafter, the term "Minimum Rent" shall refer to either Minimum Annual Rent or Minimum Monthly Rent, as appropriate. All rent obligations shall be independent obligations of Tenant and Tenant shall not have any right to set off any claim of whatever nature which it may have against Landlord against Tenant's Minimum Annual or Monthly Rent or other obligations under this Lease.

Section 4.02. Revenue Sharing. In addition to the Minimum Monthly Rent provided herein, Tenant shall also pay to Landlord as Additional Rent Twelve Percent (12%) of any and all net revenue earned by Tenant from any and all non-restaurant operations conducted at the Facility or at Grand Park in Westfield, Indiana, including, but not limited to, catering for special events ("Non-Restaurant Operations"). "Non-Restaurant Operations" shall not include restaurant delivery to the fields or the grounds on the Grand Park facility nor events held off the grounds of Grand Park. Tenant shall be responsible for the payment of all expenses incurred in the performance of any Non-Restaurant Operations. Within fifteen (15) days of the end of each month during the Original Term and any Renewal Term, Tenant shall provide to Landlord a detailed listing of all Non-Restaurant Operations and the revenues derived therefrom. Such monthly report shall be provided whether or not any Non-Restaurant Operations were conducted by Tenant. Tenant shall make any payment required pursuant to such monthly reports within three (3) days of the affirmative acceptance by Landlord of such monthly report. The receipt or acceptance by Landlord of any monthly report or payment under this Section shall not prevent Landlord from subsequently challenging the validity or accuracy of or auditing such monthly report or payment provided that such challenge is made with sixty (60) days after the payment is received by Landlord pursuant to this Section.

Section 4.03. Reimbursement of Expenses. In addition to the payment of Minimum Rent as provided in this Article IV, Tenant shall pay to Landlord all other sums of money and charges required to be paid by Tenant to Landlord under this Lease. If any such sum or charge is not paid at the time provided in this Lease, it shall nevertheless be collectible with the next installment of Minimum Monthly Rent, provided that nothing contained herein shall be deemed to suspend or delay the payment of such sum or charge or to limit any remedy of Landlord with respect to Tenant's nonpayment.

Section 4.04. Place of Payments. All payments required to be paid and all statements or notices required to be rendered by Tenant or Landlord shall be delivered to the other party at its address set forth in Section 17.14 or to such other address as Landlord or Tenant shall specify in accordance with such Section.

Section 4.05. Late Charges. In the event Tenant fails to pay within ten (10) days after the same is due and payable any installment of Minimum Monthly Rent or any other sum or charge required to be paid by Tenant to Landlord under this Lease, Tenant shall pay a late charge of five percent (5%) of the unpaid amount, and such unpaid amount shall bear interest from the due date thereof to the date of payment at the rate of the prime rate as set forth in the "Money Rates" section of the Wall Street Journal or such similar publication plus eight percent (8%) per annum until paid. In the event such delinquency service charge is due to Landlord, Tenant shall pay such charge to Landlord along with and in addition to the next monthly payment of Minimum Monthly Rent.

Section 4.06. Renewal Minimum Rent. On each anniversary of the Rent Commencement Date, the Minimum Annual Rent shall be increased to an amount equal to One Hundred and Two percent (102%) of the Minimum Annual Rent payable for the immediately preceding Lease Year for the first four years of the Lease, and One Hundred Five Percent (105%) for all remaining periods thereafter, payable in

advance in equal monthly installments as provided in Section 4.01 hereof. Tenant shall continue to pay any and all Additional Rent due to Landlord hereunder.

ARTICLE V **COMMON AREAS**

Section 5.01. Definition. As used in this Lease, “Common Areas” is defined to mean all real estate shown in and/or comprising the Facility and other facilities located thereon or appurtenant thereto designed for use in common by tenants of the Facility and their agents, employees, servants, customers, invitees and licensees, with such facilities and improvements, including parking areas, ingress, egress and access roads, sanitary sewers and utility lines, walkways and sidewalks, corridors, stairwells, foyer, public restrooms, landscaped and planted areas and related facilities.

Section 5.02. Management of Common Areas. Landlord shall operate, manage, equip, light, heat, cool, repair, clean, maintain, and replace the Common Areas for their intended purposes in such manner as Landlord in its reasonable discretion shall determine, and the Common Areas shall at all times be subject to the exclusive control and management of Landlord. Landlord may at any time temporarily close all or any part of the Common Areas to make repairs or changes and to perform such other acts in or to the Common Areas as Landlord in its reasonable discretion shall deem appropriate. Except as otherwise provided herein, if the amount or configuration of the Common Areas and any other facilities not within the Leased Premises are changed or diminished, Landlord shall not be subject to any liability therefore, nor shall Tenant be entitled to any compensation or diminution or abatement of rent, nor shall such diminution of such areas be deemed constructive or actual eviction.

Section 5.03. Charges for Common Areas. Tenant shall pay monthly to Landlord Tenant’s share of all costs and expenses incurred by Landlord during the Lease Term in operating and maintaining the Common Areas (“Common Areas Costs”), which shall be in addition to Minimum Rent. The Common Areas Costs shall include, but not be limited to, costs and expenses paid or incurred for repairing, maintaining, and operating improvements in the Common Areas, such as paving, curbs, walkways, pole signs and directional signs, storm and sanitary sewers and lighting facilities, association dues or assessments for offsite improvements, including roadway and drainage facilities connected to or related to the Facility, trash collection, utilities, security, snow and ice removal, gardening and landscaping, striping of parking areas, all charges payable by Landlord to provide utility services to the Common Areas (as defined below); licenses, permits and inspection fees; legal, accounting, inspection and consulting fees; costs of capital improvements to the Common Areas, other than the initial construction of the Facility, amortized over their expected useful life based upon and including a market rate of interest; a management fee not greater than that generally charged in the Indianapolis, Indiana area for properties comparable to the Facility; workmen’s compensation, unemployment taxes and Social Security taxes and administrative fees of up to ten percent (10%) of all other Common Areas Costs. Consistent with the foregoing, the following specific items shall not be included in Common Areas Costs: (i) the cost of improvements, alterations, maintenance or repairs to space in the Facility leased to others; (ii) debt service payments; (iii) federal, state and city income taxes on income from rents, if any; (iv) any cost or expenditure for which Landlord is reimbursed from insurance proceeds; (v) any cost or expenditure for which Landlord is reimbursed from condemnation proceeds; (vi) expenses which are billed directly to any tenant of the Facility (other than as a tenant’s share of the Common Areas Costs); (vii) costs which are covered by warranty to Landlord by contractors who have warranty obligations; and (viii) leasing commissions, attorneys’ fees and collection costs related to negotiation and enforcement of tenant leases.

Section 5.04. Estimate of Annual Common Area Costs. The estimate for the Common Area Costs for the first year of the Term is set forth herein, which is not a “capped” annual amount but rather

the estimate for of the Common Area Costs for the first year only. Tenant shall pay its proportionate share of the actual Common Area Costs during the Term.

Year 1 \$58,618

Any expenses above or greater than the above listed Common Area Costs incurred in the generation of revenues by Landlord shall be the responsibility of Landlord.

Section 5.05. Employee Parking. If Landlord so designates, Tenant and Tenant's employees shall park their cars only in those portions of the parking areas designated for that purpose by Landlord. Upon five (5) days prior written request from Landlord, Tenant shall provide Landlord with the automobile license numbers of Tenant's employees.

ARTICLE VI **TAXES**

Section 6.01. Taxes. Landlord will pay all Real Property Taxes (as hereinafter defined) which may be levied or assessed by any lawful authority against the land and improvements of the Facility. Tenant agrees to reimburse Landlord for its proportionate share of such Real Property Taxes as provided in Article XIV of this Lease. A tax bill submitted by Landlord to Tenant shall be sufficient evidence of the amount of taxes assessed or levied against the land and improvements of the Facility. For purposes of this Article, the term "Real Property Taxes" shall include (i) the usual real property taxes or ad valorem taxes; (ii) any taxes which shall be levied in lieu of any such usual real property taxes or ad valorem taxes; (iii) any special assessments levied upon the Facility; and (iv) the expense of contesting the amount or validity of any such taxes, charges or assessments, such expense to be applicable to the period of when paid. Taxes for any period shall be taxes which are due for payment in that period, rather than taxes which are assessed or become a lien during such period. Taxes in any period shall be reduced by the net amount of any tax refund received by Landlord during such period.

Section 6.02. Taxes on Tenant's Business and Property. Tenant shall pay and discharge when due all taxes and charges imposed upon the conduct of its business in the Leased Premises and all property taxes imposed upon its fixtures, equipment, merchandise, and other personal property on or at the Leased Premises.

ARTICLE VII **USE OF LEASED PREMISES**

Section 7.01. Permissible Use and Restrictions. The Leased Premises shall be continuously occupied and used solely for the purpose of operating a full-service restaurant, sports bar and catering business and for no other purpose without Landlord's prior written consent. During the Lease Term, as long as Tenant operates a full-service restaurant, sports bar and catering business in the Leased Premises, Landlord shall not enter into any lease of space in the Facility that would permit any other space to be used for any similar uses.

Section 7.02. Opening for Business. Tenant shall proceed with due diligence to open for business at the Leased Premises on or prior to the Rent Commencement Date but in no event later than thirty (30) days following the Rent Commencement Date, and shall thereafter continuously, actively, and diligently operate its business on the whole of the Leased Premises in a reputable manner, maintaining in the Leased Premises a full staff of employees and a full appropriate stock of inventory during Regular Business Hours (as hereinafter defined) throughout the Lease Term, unless prevented from so doing by fire, strikes, or other contingencies beyond Tenant's control.

Section 7.03. Rules and Regulations; Sign Criteria. Tenant shall comply with the rules and regulations of the Facility adopted by Landlord which are set forth in Exhibit D attached hereto and made a part hereof. Landlord shall have the right at all times to change and amend the rules and regulations in any reasonable manner as it may deem advisable for safety, care, cleanliness, preservation of good order and operation or use of the Facility. All changes and amendments to the rules and regulations of the Facility will be forwarded by Landlord to Tenant in writing and shall thereafter be carried out and observed by Tenant. Tenant shall not place or permit to be placed or maintained in or on any portion of the Facility outside the Leased Premises, including, but not limited to, any exterior doors, walls, roof, or windows of the Facility, any sign, awning, or canopy or other advertising matter and shall not place or permit to be placed or maintained any decoration, lettering, or advertising matter on the glass or any window or door of the Leased Premises, without Landlord's prior written approval.

Section 7.04. Hazardous Substances. Tenant shall place no underground storage tanks of any kind in, on, at or under the Leased Premises and shall not place or use tanks, drums or other containers of any kind in, on, at or under the Leased Premises, the contents of which are unknown to Landlord. Tenant shall not engage in any activities involving the use, treatment, transportation, generation, storage or disposal of any Hazardous Substances (as hereinafter defined) in hazardous quantities and no Hazardous Substances in hazardous quantities shall be released on, at or from the Leased Premises. Tenant shall notify Landlord in the event that it files any Material Safety Data Sheets ("MSDS") or any forms or reports on an annual basis to any federal, state or local government entity pursuant to Section 312 of the federal Emergency Planning and Community Right-to-Know Act of 1986 (the "MSDS Filings"), including Tier II filings and any MSDS Filings for Extremely Hazardous Substances over the Threshold Planning Quantity. The Term "Hazardous Substances" means any hazardous or toxic substance regulated by any federal, state or local statute or regulation, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA) and the Toxic Substance Control Act, or by any federal, state or local governmental agencies having jurisdiction over the control of any such substance, including, but not limited to, the United States Environmental Protection Agency (EPA). Tenant shall indemnify, defend, and hold harmless Landlord from and against (a) any loss, cost, expense, claim, or liability arising out of any investigation, monitoring, clean-up, containment, removal, storage, or restoration work (herein referred to as "Remedial Work") required by, or incurred by, Landlord or any other person or party in a reasonable belief that such Remedial Work is required by any applicable federal, state or local law, rule, regulation or order, or by any governmental agency, authority, or political subdivision having jurisdiction over the Leased Premises as a result of or arising from the use or occupancy by Tenant or its agents, employees, or invitees of the Leased Premises, and (b) any claims of third parties for loss, injury, expense, or damage arising out of the presence, release, or discharge of any Hazardous Substances on, under, in, above, to or from the Leased Premises as a result of or arising from the use or occupancy by Tenant or its agents, employees, or invitees of the Leased Premises.

Section 7.05. Hold Harmless. Landlord shall not be liable to Tenant or to Tenant's customers, employees, agents, guests or invitees, or to any other person, for any injury to person or damage to property on or about the Leased Premises or the Facility, including, but not limited to, consequential damage, (1) caused by any act or omission of Tenant, its employees, subtenants, licensees and concessionaires or of any other person entering the Facility or the Leased Premises by express or implied invitation of Tenant, or (2) arising out of the use of the Leased Premises or the Facility by Tenant, its employees, subtenants, licensees, concessionaires or invitees, or (3) caused by the improvements located in or at the Leased Premises becoming out of repair or by defect in or failure of equipment, pipes, or wiring, or by broken glass, or by the backing up of drains, or by gas, water, steam, electricity or oil leaking, escaping or flowing into the Leased Premises or Facility, or (4) arising out of the failure or cessation of any service provided by Landlord. Tenant hereby agrees to indemnify and hold Landlord

harmless from any liability, loss, expense or claim (including, but not limited to, attorneys' fees) arising out of any such damage or injury. Landlord shall not be liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of other tenants of the Facility or of any other persons whomsoever. Further, Tenant specifically agrees to be responsible for and indemnify and hold Landlord harmless from any and all damages or expenses of whatever kind arising out of or caused by a burglary, theft, vandalism, malicious mischief or other illegal acts performed in, at or from the Leased Premises. Tenant's obligations under this Section shall survive the expiration or earlier termination of this Lease.

ARTICLE VIII

UTILITIES, HEATING, AND COOLING

Section 8.01. Utilities. Utilities for the Leased Premises shall be installed, maintained, and paid for as follows:

- (a) No later than the Rent Commencement Date, Landlord shall have utilities connected by the applicable utility company and shall pay the usual and customary activation fees for such utilities which shall be separately metered to Tenant. Any utilities that can be separately metered shall be separately metered through the Original Term and any Renewal Term. Further, if Landlord determines that Tenant is a substantial user of any utilities which are not separately metered, Landlord may require Tenant to install submeters for such utilities at its sole cost and expense.
- (b) Landlord shall maintain all utility conduits, piping, conductor, and the like, both which serve the Leased Premises and which are located off the Leased Premises. Tenant shall pay to Landlord Tenant's Pro Rata Share (as hereinafter defined) of all costs and expenses, except for the cost of installation, paid or incurred by Landlord in maintaining such utilities off the Leased Premises, as provided in Article XIV of this Lease.
- (c) Commencing on the Commencement Date, Landlord shall maintain all utility conduits, piping, conductors, and the like located in the Leased Premises and shall pay for utilities as follows:
 - (i) All utilities which are metered or submetered at Leased Premises shall be put in Tenant's name and paid by Tenant on a usage basis as metered, and
 - (ii) Utilities which are not metered or submetered at the Leased Premises shall be paid by Tenant on a pro rata basis as specified in Article XIV of this Lease.

Section 8.02. Discontinuance of Services. Landlord reserves, and shall at all times have, the right to cut off and discontinue, without notice to Tenant, water, electricity, heating and air conditioning, or other utilities and services whenever Tenant has failed to pay any rental or other charges due under this Lease. Landlord shall under no circumstances be liable to Tenant in damages or otherwise for any interruption in service of water, electricity, heating, air conditioning, or other utilities and services caused by an unavoidable delay, by the making of any necessary repairs or improvements, by any cause beyond Landlord's control, or by discontinuance as provided in the preceding sentence of this Section.

ARTICLE IX
MAINTENANCE AND ALTERATIONS

Section 9.01. Landlord's Obligations. Landlord shall keep in good repair, operate and maintain the Common Areas, the Leased Premises and the Facility. Landlord shall keep in good repair the foundation, structural parts, outer walls (except the interior faces thereof), downspouts, gutters, and roof of the Facility as part of the Common Areas Costs.

Section 9.02. Tenant's Obligations. Tenant shall not suffer or permit any injury to the Leased Premises. Tenant shall immediately notify Landlord of any damage, injury, or disrepair of any part of the Leased Premises caused by or known to Tenant.

Section 9.03. Alterations and Additions. Tenant shall make no alterations or additions to any part of the Leased Premises without the prior written consent of Landlord, except the leasehold improvements which Tenant is expressly entitled to make in accordance with Section 3.04 herein. All such alterations and additions to the Leased Premises shall be made in accordance with all applicable laws and shall remain for the benefit of Landlord; provided, however, that Landlord may elect by written notice to Tenant to require that Tenant, at its expense, remove at the expiration or earlier termination of this Lease all or a portion of the alterations or additions made by Tenant and repair any damage to the Leased Premises caused by such removal. Tenant's obligations under this Section shall survive the expiration or earlier termination of this Lease.

Section 9.04. Mechanic's Liens. Tenant shall not suffer or give cause for the filing of any mechanic's lien against the Leased Premises. In the event any mechanic's lien is filed against the Leased Premises or any part thereof for work claimed to have been done for, or material claimed to have been furnished to the Tenant, Tenant shall cause such mechanic's lien to be discharged of record within thirty (30) days after filing or, alternatively, Tenant shall furnish to Landlord (or any other entity designated by Landlord) within such thirty (30) day period a bond or other assurances reasonably acceptable to Landlord that such claimed indebtedness as finally determined will be paid by Tenant. Tenant shall indemnify and save harmless Landlord from all costs, losses, expenses, and attorneys' fees in connection with any such mechanic's lien.

ARTICLE X
INDEMNIFICATION AND INSURANCE

Section 10.01. Indemnification. On and after the date that is three (3) months prior to the Rent Commencement Date, Tenant assumes all risks and responsibilities for accidents, injuries, or damages to persons or property (other than as provided in Section 10.02 below with respect to damage by fire and casualty), and agrees to indemnify and hold harmless Landlord from any and all claims, liabilities, losses, costs, and expenses (including attorneys' fees) arising from or in connection with the condition, use, or control of the Leased Premises and any improvements thereon during the Lease Term.

Section 10.02. Landlord's Insurance. Landlord shall maintain public liability insurance against damage to persons and property in the Common Areas in reasonable amounts and shall agree to hold Tenant harmless for all liabilities covered by such insurance. Landlord shall carry during the Lease Term fire and extended coverage insurance on the Facility for at least its full insurable value. Landlord shall also maintain business interruption insurance and/or loss of "rental value" insurance in such amounts as Landlord shall reasonably deem necessary. Tenant agrees to reimburse Landlord for its proportionate share of the Insurance Premiums for all such insurance and the deductibles incurred by Landlord, as provided in Article XIV hereof.

Section 10.03. Increase in Insurance Rates. If Tenant uses or permits the use of the Leased Premises or any part thereof in any manner so as to increase the cost of insurance to Landlord over and above the normal rates from time to time applicable to the Leased Premises for the use permitted under this Lease, Tenant shall pay to Landlord upon demand any such increase in the premiums for such insurance whether or not Landlord has consented to such use.

Section 10.04. Insurance - Tenant. Tenant shall, commencing three (3) months prior to the Rent Commencement Date and thereafter during the Lease Term, keep in full force and effect policies of public liability insurance (with contractual liability endorsement covering the matters set forth in Section 10.01 above), in companies and in a form acceptable to Landlord, with respect to the Leased Premises and the business operated by Tenant and/or any subtenants of Tenant in or at the Leased Premises, in which both Landlord and Tenant shall be named as parties covered thereby (covering Tenant as the named insured and identifying Landlord as an “additional insured”), providing for comprehensive general liability insurance with a limit of not less than Two Million Dollars (\$2,000,000) per occurrence, or commercial general liability insurance with a limit of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) aggregate per location endorsement, including in both instances, personal and advertising injury coverages and umbrella or excess liability coverage with a limit of not less than Five Million Dollars (\$5,000,000) per occurrence and fire legal liability coverage. Tenant shall, at its own expense, also keep in full force and effect policies of plate glass insurance, if plate glass is a part of Leased Premises, and fire and extended coverage, vandalism, malicious mischief and special extended coverage insurance in any amount adequate to cover the cost or replacement of all alterations, changes, decorations, additions, fixtures, and other improvements in the Leased Premises in the event of a loss, in companies and in form acceptable to Landlord. In addition, at all times during the Original Term and any Renewal Term, Tenant shall procure and maintain workers’ compensation insurance and employers liability insurance with a limit not less than One Millions Dollars (\$1,000,000) bodily injury each accident; One Million Dollars (\$1,000,000) bodily injury by disease – each person; and One Million Dollars (\$1,000,000) bodily injury to disease – policy limit. The insurance which Tenant is required to carry pursuant to this Section shall insure the full insurable value of all such improvements installed in and at the Leased Premises, on a reproduction cost basis, whether the same have been paid for entirely or partially by Tenant. Landlord and other tenants and occupants shall not be liable for any damage by fire or other casualty with respect to such improvements, no matter how caused, it being understood that Tenant will look solely to its insurers for reimbursement. All insurance maintained by Tenant as required pursuant to this Section 10.04 shall be carried in favor of Landlord and Tenant, as their respective interests may appear. Tenant shall, upon request, furnish Landlord with certificates of insurance, and all such insurance shall carry a provision providing that it will not be subject to cancellation, termination, or change except after at least thirty (30) days prior written notice to Landlord. If Tenant fails to comply with the above requirements, Landlord may obtain such insurance and keep same in effect, and Tenant shall pay Landlord all premium costs thereof upon demand.

Section 10.05. Tenant’s Property. All property of Tenant shall be kept or stored in, upon, or about the Leased Premises at the sole risk of Tenant and Tenant shall hold Landlord harmless from and against any claims, costs, or expenses, including attorneys’ fees, arising out of loss or damage thereof.

Section 10.06. Waiver of Subrogation. All insurance policies maintained by Landlord or Tenant as provided in this Article X shall contain an agreement by the insurer waiving the insurer’s right of subrogation against the other party to this Lease or agreeing not to acquire any rights of recovery which the insured has expressly waived prior to loss. Each of the parties hereto agrees that if the provision waiving subrogation in any of such policies of insurance requires that notice of such waiver be served upon the insurer, such notice shall be promptly served by the party obtaining such insurance.

ARTICLE XI
FIRE AND CASUALTY

If the Leased Premises become partially or totally destroyed by fire or other casualty insurable under full standard extended risk insurance, so as to become partially or totally untenable, the same shall be repaired or replaced at the expense of Landlord to the extent of available insurance proceeds. However, if more than fifty percent (50%) of the total rentable area of the Facility shall be destroyed or so damaged by fire or other casualty as to become wholly untenable, or if Landlord determines that the Facility cannot be restored within one hundred eighty (180) days, then Landlord may rebuild or put the Facility in good condition and fit for occupancy within a reasonable time after such destruction or damage, or it may give notice in writing to Tenant terminating the Lease. Within sixty (60) days after such casualty, Landlord shall either give Tenant notice of its intention to repair or rebuild or shall give Tenant notice of its intention to terminate the Lease. Any proceeds from the fire and extended coverage insurance not utilized by Landlord in restoring the Leased Premises shall be and remain the sole property of Landlord. Minimum Rent shall proportionately abate during the time that the Leased Premises are totally unusable by reason of any such damage thereto.

ARTICLE XII
EMINENT DOMAIN

In the event that all or a part of the Leased Premises is taken or condemned for public or quasi-public use under any statute or by the right of eminent domain, or that, in lieu thereof, all or a part of the Leased Premises is sold to a public or quasi-public body under threat of condemnation, and such taking, condemnation, or sale renders the Leased Premises totally unsuitable for operation of the Tenant's business therein, this Lease shall terminate on the date possession of all or such part of the Leased Premises is transferred to the condemning authority. All rent shall be paid up to the date of transfer of possession to the condemning authority, and all compensation awarded or paid for taking or sale in lieu thereof shall belong to and be the sole property of Landlord, and Tenant shall have no claim against Landlord for the value of any unexpired portion of the Lease Term; provided, however, that Tenant shall be entitled to any separate award for personal property or moving costs, so long as such award shall not reduce the compensation paid or awarded to Landlord. In the event that only a portion of the Leased Premises is taken or condemned and such taking does not materially affect the business of Tenant, Tenant shall be entitled to a proportionate abatement of Minimum Rent but shall not be entitled to any award or payment made for such taking.

ARTICLE XIII
DEFAULT AND REMEDIES

Section 13.01. Events of Default. Each of the following shall be deemed a default by Tenant:

- (a) Tenant's failure to pay rent (including Minimum Rent and Additional Rent) as herein provided within ten (10) days of when due;
- (b) Tenant's failure to perform or observe any other terms, conditions, or covenants of this Lease to be performed or observed by Tenant;
- (c) Any change or modification in the use of the Leased Premises as set forth in Section 7.01 herein or any substantial change in the quality or character of such use if such change adversely affects the Facility, as solely determined by Landlord;

- (d) Tenant's vacation or abandonment of the Leased Premises or any failure to keep the Leased Premises open for business as provided in Section 7.02 herein (without limiting the meaning of the terms "vacation or abandonment", the transfer of a substantial part of the operations, business, and personnel of Tenant to some other location shall be deemed to be a breach of this subsection, notwithstanding the fact that Tenant shall thereafter continue to pay the rent due under this Lease);
- (e) The sale of Tenant's leasehold interest hereunder pursuant to execution;
- (f) The adjudication of Tenant as a bankrupt;
- (g) The making by Tenant of a general assignment for the benefit of creditors;
- (h) The appointment of a receiver in equity for Tenant's property if such appointment is not vacated or otherwise terminated within sixty (60) days from the date of such appointment;
- (i) The appointment of a trustee, custodian, or receiver for Tenant's property in a reorganization, arrangement, or other bankruptcy proceeding if such appointment is not vacated or set aside within sixty (60) days from the date of such appointment;
- (j) Tenant's filing of a voluntary petition in bankruptcy or for reorganization or arrangement;
- (k) Tenant's filing of an answer admitting bankruptcy or agreeing to reorganization or arrangement;
- (l) Dissolution or other termination of Tenant's corporate charter; or
- (m) Issuance of a criminal charge or indictment or a conviction for a crime against the Tenant.

Landlord shall provide written notice to Tenant of a default under subsections (b) or (c) herein.

Section 13.02. Landlord's Rights Upon Tenant's Default. In the event of any default provided in the foregoing Section 13.01, without any demand or notice Landlord, in addition to pursuing any other rights or remedies available at law or in equity, may:

- (a) Elect to terminate this Lease;
- (b) In the event that Tenant has failed to perform any of its covenants under this Lease other than a covenant to pay rent, perform the covenant or covenants of Tenant which are in default at Tenant's cost and expense (entering upon the Leased Premises for such purpose, if necessary); and Landlord's performance of any such covenant shall neither subject Landlord to liability for any loss, inconvenience, or damage to

Tenant nor be constructed as a waiver of Tenant's default or of any other right or remedy of Landlord in respect of such default, or as waiver of any covenant, term, or condition of this Lease; or

- (c) immediately re-enter upon the Leased Premises, remove all persons and property therefrom, and store such property in a public warehouse or elsewhere at the sole cost and for the account of Tenant, all without service of notice or resort to legal process, without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby, and without such re-entry being deemed to terminate this Lease.

Section 13.03. Re-Letting. In the event Landlord re-enters upon the Leased Premises as provided in the foregoing Section 13.02 or takes possession of the Leased Premises, Landlord may either terminate this Lease or, from time to time without terminating this Lease make alternations and repairs reasonably necessary for the purpose of re-letting the Leased Premises and re-let the Leased Premises or any part thereof for such term or terms (which may extend beyond the Lease Term) at such rental and upon such other terms and conditions as Landlord in its reasonable discretion deems advisable. Upon each re-letting, all rentals received from such re-letting shall be applied first to payment of costs of such alterations and repairs; second, to the payment of rent and any other indebtedness due and unpaid hereunder; and the remainder, if any, shall be applied in payment of future rent. Tenant shall be liable to Landlord for the difference between Tenant's Rent and other charges herein provided and the rental and other charges received from such re-letting. Any such difference (or the entire rental in the event the Leased Premises is not relet) owing by Tenant for the entire remainder of the Lease Term shall be due and may be recovered at once, at the option of the Landlord, without awaiting the expiration of the Lease Term; in which case, recovery shall be based upon the best estimates of the amounts thereof available at that time without releasing Tenant from liability for payment of all amounts due under this Lease. No re-entry or taking of possessions by Landlord of the Leased Premises shall be construed as an election to terminate this Lease unless a written notice of termination is given to Tenant. Notwithstanding any re-letting without termination, Landlord may at any time thereafter elect to terminate this Lease for Tenant's previous default. Landlord shall take commercially reasonable steps to re-let the Leased Premises to mitigate Landlord's Damages which result from Tenant's Default.

Section 13.04. Damages Upon Termination. In the event that Landlord at any time terminates this Lease for any default by Tenant, in addition to any other remedies Landlord may have, Landlord may recover from Tenant all damages Landlord may incur by reason of such default, including, but not limited to, costs of recovering the Leased Premises, attorneys' fees, and the value at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this Lease for the remainder of the Lease Term over the then reasonable rental value determined by Landlord of the Leased Premises for the remainder of the Lease Term. All such amounts shall be immediately due and payable by Tenant to Landlord.

Section 13.05. Indemnification Upon Default. Upon any default by Landlord or Tenant hereunder, the defaulting party shall be liable for and hereby agrees to apply any and all liabilities, losses, costs and expenses, including attorneys' fees, incurred by the non-defaulting party as a result of such default and in exercising the non-defaulting party's rights and remedies in connection with such default. Notwithstanding the foregoing, Landlord shall not be considered in default until it has received from Tenant written notice of such default and has not cured such default (i) within thirty (30) days with respect to any default which is curable within said time period, or (ii) for any default which is not capable

of being cured until after thirty (30) days, Landlord has commenced cure within thirty (30) days and thereafter diligently prosecutes curing the default. In addition, prior to Landlord being in default, Tenant shall provide Landlord's mortgage lender with the same foregoing cure period, provided that Tenant has received written notice from Landlord as to the identity and address of such mortgage lender. Notwithstanding the foregoing, Tenant shall not be considered in default under Section 13.01 (b), (c), or (d) until it has received from Landlord written notice of such default and fails to cure such default (i) within thirty (30) days with respect to any default which is curable within said time period, or (ii) for any default which is not capable of being cured until after thirty (30) days, Tenant has commenced cure within thirty (30) days and thereafter diligently prosecutes curing the default within an agreed upon schedule with Landlord.

Section 13.06. Remedies Cumulative. The remedies of Landlord hereunder shall be cumulative, and no one of them shall be construed as exclusive of any other or of any remedy provided by law or in equity. The exercise of any one such right or remedy by Landlord shall not impair its standing to exercise any other such right or remedy.

Section 13.07. Landlord's Default. It shall be a default under and breach of this Lease by Landlord if it shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Lease for a period of thirty (30) days after written notice thereof from Tenant; provided, however, that the same shall not be deemed a default if it cannot be cured within the thirty day time period and Landlord promptly commences and thereafter diligently prosecutes to completion the cure thereof. Upon the occurrence of an event of default by Landlord, Tenant may terminate this Lease and seek Tenant's Damages if proof of damages are established or available at the time of the default. Notwithstanding any provision contained herein to the contrary, Tenant shall take commercially reasonable steps to mitigate Tenant's Damages which result from Landlord's Default.

ARTICLE XIV **TENANT'S PAYMENT OF PRO RATA SHARE**

Section 14.01. Tenant's Pro Rata Share. Beginning on the Rent Commencement Date, Tenant shall pay as additional rent ("Additional Rent") to Landlord, in the manner provided in Section 14.02 herein, Tenant's Pro Rata Share of all charges, liabilities, costs, and expenses of every kind and nature paid or incurred (including appropriate reserves) by Landlord during the Lease Term for each Lease Year or Fractional Lease Year which are attributable to or relate to the Facility for the following:

- (a) Common Areas Costs, as described in Section 5.03;
- (b) Real Property Taxes, as described in Article VI;
- (c) Utilities, as described in Section 8.01;
- (d) Insurance Premiums and deductibles, as described in Section 10.02; and
- (e) Maintenance and Repairs, as described in Section 9.01.

(items (a) through (e) above are hereinafter referred to in the aggregate as "Operating Costs").

Section 14.02. Calculation and Payment. "Tenant's Pro Rata Share" of the Operating Costs shall be Three and 50/100 Dollars (\$3.50) per square foot of the Leased Premises during the first Lease

Year, and shall be subject to annual increases as determined in Landlord's sole and reasonable discretion. Tenant shall pay on a monthly basis, in advance, Tenant's Pro Rata Share of 4.51% the Operating Costs for each Lease Year or Fractional Lease Year, in any amount estimated by Landlord as provided in this Section. Landlord's estimate shall be made on the basis of the most recent Annual Operating Cost Statement, if available, adjusted to reflect reasonably anticipated increases or decreases of Operating Costs.

Section 14.03. Reconciliation. An Annual Operation Cost Statement prepared by Landlord shall be provided to Tenant not later than April 1 of each calendar year setting forth in reasonable detail the actual Operating Costs paid or incurred by Landlord for the Facility and the Leased Premises in the preceding Lease Year or Fractional Lease Year. The dates of any such statements, at the option of the Landlord, are subject to change. Upon the furnishing of the Annual Operation Cost Statement, the installments of Additional Rent paid by Tenant for the subject calendar year shall be reconciled with the Additional Rent for such calendar year as set forth in the Annual Operation Cost Statement. If the Additional Rent for the calendar year as set forth in the Annual Operation Cost Statement exceeds the total of the installments of Additional Rent paid by Tenant for such calendar year, then Tenant shall pay the amount of such excess to Landlord within thirty (30) days after Landlord delivers to Tenant the Annual Operation Cost Statement. If the total of the installments of Additional Rent paid by Tenant for the calendar year exceeds the Additional Rent for the calendar year as set forth in the Annual Operation Cost Statement, then Tenant shall receive a credit against the monthly installments of Additional Rent subsequently accruing until such excess is exhausted or, if this Lease has been terminated, such excess shall be refunded to Tenant promptly upon determination of the proper amount thereof. In no event shall the Minimum Rent be decreased.

ARTICLE XV

ACCESS TO LEASED PREMISES

Tenant shall permit Landlord and its agents and employees to enter in and upon the Leased Premises at all reasonable times to inspect and examine the Leased Premises, to show the Leased Premises to prospective purchasers, mortgagees, or tenants, or to make such repairs that Landlord may deem necessary or desirable, provided Landlord shall have access to the Leased Premises without advanced notice and without interfering with Tenant's quiet enjoyment should an emergency situation occur at the Leased Premises.

ARTICLE XVI

LIMITATION OF LANDLORD'S LIABILITY

Tenant agrees that Tenant shall look solely to Landlord's interest in and to the Facility, subject to prior rights of any lessor or mortgagee of the Facility, for satisfaction of any judgment (or other judicial process) requiring payment of money by Landlord in the event of default or breach by Landlord of any of the covenants, terms or conditions of this Lease to be observed or performed by Landlord, and that no other assets of Landlord shall be subject to levy, execution, or of the process for satisfaction of Tenant's remedies. The term "Landlord", as used in this Lease in relation to covenants, agreements, and conditions to be observed and performed by Landlord, shall be limited to mean and include only the owner or owners from time to time of Landlord's interest in this Lease. In the event of any transfer or transfers of such interest (except a transfer for security), Landlord named herein (or the transferor, in the case of a subsequent transfer) shall, after the date of such transfer, be released from all liability for the performance of any covenant, agreement, and conditions under this Lease. This Lease shall bind Landlord, its successors and assigns only during and in respect of their respective successive periods of ownership of the Facility.

ARTICLE XVII
MISCELLANEOUS

Section 17.01. Sublease. This Sublease and all the rights of parties hereunder are subject and subordinate to the Master Lease. Each party agrees that it will not, by its act or omission to act, cause a default under the Master Lease. In furtherance of the foregoing, the parties hereby confirm, each to the other, that it is not practical in this Sublease agreement to enumerate all of the rights and obligations of the various parties under the Master Lease and specifically to allocate those rights and obligations in this Sublease. Accordingly, in order to afford to Tenant the benefits of this Sublease and of those provisions of the Master Lease which by their nature are intended to benefit the party in possession of the Premises, and in order to protect Landlord against a default by Tenant which might cause a default or event of default by Landlord under the Master Lease:

A. Provided Tenant shall timely pay all Rent when and as due under this Sublease, Landlord shall pay, when and as due, all base rent, additional rent and other charges payable by Landlord to Prime Landlord under the Master Lease;

B. Except as otherwise expressly provided herein, Landlord shall perform its covenants and obligations under the Master Lease which do not require for their performance possession of the Premises and which are not otherwise to be performed hereunder by Tenant on behalf of Landlord. For example, Landlord shall at all times keep in full force and effect all insurance required of Landlord as tenant under the Master Lease.

C. Except as otherwise expressly provided herein, Tenant shall perform all affirmative covenants and shall refrain from performing any act which is prohibited by the negative covenants of the Master Lease, where the obligation to perform or refrain from performing is by its nature imposed upon the party in possession of the Premises. If practicable, Tenant shall perform affirmative covenants which are also covenants of Landlord under the Master Lease at least five (5) days prior to the date when Landlord's performance is required under the Master Lease. Landlord shall have the right to enter the Premises to cure any default by Tenant under this Section.

D. Landlord shall not agree to an amendment to the Master Lease which might have an adverse effect on Tenant's occupancy of the Premises or its use of the Premises for their intended purpose, unless Landlord shall first obtain Tenant's prior written approval thereof.

E. Landlord hereby grants to Tenant the right to receive all of the services and benefits with respect to the Premises which are to be provided by Prime Landlord under the Master Lease. Landlord shall have no duty to perform any obligations of Prime Landlord which are, by their nature, the obligation of an owner or manager of real property. For example, Landlord shall not be required to provide the services or repairs which the Prime Landlord is required to provide under the Master Lease. Landlord shall have no responsibility for or be liable to Tenant for any default, failure or delay on the part of Prime Landlord in the performance or observance by Prime Landlord of any of its obligations under the Master Lease, nor shall such default by Prime Landlord affect this Sublease or waive or defer the performance of any of Tenant's obligations hereunder except to the extent that such default by Prime Landlord excuses performance by Landlord, under the Master Lease. Notwithstanding the foregoing, the parties contemplate that Prime Landlord shall, in fact, perform its obligations under the Master Lease and in the event of any default or failure of such performance by Prime Landlord, Landlord agrees that it will, upon notice from Tenant, make demand upon Prime Landlord to perform its obligations under the Master Lease and, provided that Tenant specifically agrees to pay all costs

and expenses of Landlord and provides Landlord with security reasonably satisfactory to Landlord to pay such costs and expenses, Landlord will take appropriate legal action to enforce the Master Lease.

Section 17.02. Assignment and Subletting. Tenant shall not assign this Lease or sublet the whole or any part of the Leased Premises, or permit any other persons, including concessionaires or licensees, to occupy the same without the prior written consent of Landlord. Such consent shall not be implied from references in this Lease to assignees, sublessees, concessionaires, or licensees. The consent by Landlord to any assignment or subletting shall not constitute a waiver of the requirement for such consent to any subsequent assignment or subletting. Any such assignment or subletting, even with the consent of Landlord, shall not relieve Tenant from liability for payment of rent or other sums herein provided or from the performance of any other obligations under this Lease until the later of the second lease year or one (1) year after the assignment or sublease with the consent of Landlord. The acceptance of rent from any other person shall not be deemed to be a waiver of any other provisions of this Lease or a consent to the assignment of this Lease or the subletting of the Leased Premises. Any transfer of this Lease by operation of law (including, but not limited to, a transfer as a result of a merger, consolidation, or liquidation of Tenant if Tenant is not an individual) shall constitute an assignment for purposes of this Lease.

An assignment shall include any sale or transfer, whether by operation of law or otherwise, of fifty percent (50%) or more of the ownership of an entity, or in the event the present owner(s) shall, singly or collectively, cease to own, directly or indirectly, the controlling interest in the voting ownership of Tenant and shall include, in the case of limited liability companies and partnerships, any change in the Manager or General Partner.

Without in any way limiting Landlord's right to refuse to give consent to any assignment or subletting of this Lease, Landlord reserves the right to refuse to give such consent if in Landlord's discretion and opinion the proposed use of the Leased Premises or quality of merchandising operation in the Leased Premises or the Facility is or may be in any way adversely affected, if the financial worth of the proposed assignee or subtenant is less than that of Tenant or if the value of the Leased Premises has changed or will change in such a manner that the proposed assignment or sublease is contrary to the interests of or unacceptable to Landlord. Tenant agrees to reimburse Landlord for reasonable accounting and attorneys' fees incurred in conjunction with the processing and documentation of any such requested transfer, assignment, subletting, licensing or concession agreement, change of ownership or hypothecation of this Lease or Tenant's interest in and to the Leased Premises.

Section 17.03. Estoppel Certificates. Prior to opening the Leased Premises for business, Tenant shall deliver to Landlord a written statement in recordable form certifying (if such is the case) that Landlord has completed construction of the improvements constitution part of the Leased Premises in accordance with its obligations contained herein, that Tenant has accepted possession of the Leased Premises, that this Lease is in full force and effect and has not been assigned, modified, supplemented, or amended, and indicating the Commencement Date and the dates to which the Minimum Rent and other charges have been paid in advance, if any. At any time and from time to time, Tenant agrees, within ten (10) days of any request in writing from Landlord, to execute, acknowledge, and deliver to Landlord a statement in writing certifying, if this be the fact, that this lease is unmodified, in full force and effect, and there are no defenses or offsets thereto (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and the dates to which the Minimum Rent and any other additional rentals have been paid.

Section 17.04. Subordination and Attornment. Tenant shall, upon Landlord's request, subordinate this Lease to the lien of any mortgage now or hereafter placed upon Landlord's interest in the

Leased Premises or upon any buildings hereafter placed upon the land of which the Leased Premises form a part. In addition, upon the request of Landlord, Tenant shall subordinate its rights hereunder to the lien of any mortgage or mortgages or the lien or security interest from any other method of financing or refinancing (hereafter collectively referred to as "Mortgage") now or hereafter against the Facility and the land upon which it is situated, Landlord's interest therein, or the Leased Premises and the buildings now or thereafter built or to be built in the Facility, and to all renewals, modifications, replacements, consolidations, and extensions thereof. Tenant shall execute and deliver, upon demand, such further instrument or instruments subordinating this Lease to the lien of any such Mortgage, provided any subordination shall be upon the express condition that this Lease and any extension or renewal hereof shall remain in full force and effect during the Lease Term, notwithstanding any default in the payment and performance of such Mortgage and notwithstanding any foreclosure proceedings with respect thereto; provided, however, that Tenant shall perform all of the terms, covenants, and conditions of this Lease by it undertaken to be performed. Tenant shall, in the event that any proceedings are brought for the foreclosure of any Mortgage made by Landlord covering that Leased Premises, attorn to the purchaser upon such foreclosure and recognize such purchaser as Landlord under this Lease.

Section 17.05. Covenant of Quiet Enjoyment. Landlord agrees that if Tenant performs all the covenants and agreements herein provided to be performed by Tenant, Tenant shall, at all times during the Lease Term, have the peaceable and quiet enjoyment of possession of the Leased Premises without any manner of hindrance from Landlord or any persons claiming under Landlord. This Lease does not guarantee a continuance of light and air over the Leased Premises or any property adjoining the Leased Premises.

Section 17.06. Accord and Satisfaction. No payment by Tenant or receipt by Landlord of a lesser amount than the rent herein stipulated shall be deemed to be other than on account of the earliest stipulated rent, nor shall any endorsement or statement on the check or letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept any such check or payment without prejudice to Landlord's right to recover the balance of such rent or to pursue any other remedy provided in this Lease.

Section 17.07. No Option. The submission of this Lease for examination by Tenant shall not constitute a reservation of or option for the Leased Premises. This Lease shall become effective only upon execution and delivery thereof by Landlord and Tenant.

Section 17.08. Memorandum of Lease. The parties hereto shall not record this Lease, but each party shall execute upon request of the other a "Memorandum of Lease" suitable for recording. The party requesting the Memorandum shall pay all recording costs in connection therewith.

Section 17.09. Relationship of Parties. Nothing contained herein, including, but not limited to, the method of computing rent, shall be deemed or construed by the parties hereto, or by any third party, as creating between the parties hereto the relationship of principal and agent, partnership, joint venture, or any relationship other than the relationship of landlord and tenant.

Section 17.10. Waiver. The parties hereto may, by a writing signed by both of the parties, waive the performance by any party of any of the provisions to be performed by such party under this Lease. The failure of any party hereto at any time to insist upon the strict performance of any provision of this Lease shall not be construed as a waiver or relinquishment of the right to insist upon strict performance of such provision at a future time. The waiver by either party hereto of a breach of or noncompliance with any provision of this Lease shall not operate or be construed as a continuing waiver or a waiver of any other or subsequent breach or noncompliance hereunder.

Section 17.11. Severability. The invalidity or unenforceability of any particular provision of this Lease shall not affect the other provisions, and this Lease shall be construed in all respects as if such invalid or unenforceable provision had not been contained herein.

Section 17.12. Binding Effect This Lease and all of the terms and provisions hereof shall inure to the benefit of and be binding upon, the respective heirs, executors, administrators, successors and assigns of Landlord and Tenant except as otherwise expressly provided herein. Nothing in this Lease, express or implied, is intended to confer upon any person, other than the parties hereto, except as provided above, any rights, remedies, obligations, or liabilities under or by reason of this Lease.

Section 17.13. Construction. This Lease shall be construed and governed in accordance with the laws of the State of Indiana, without regard to its conflict of law provisions. Whenever in this Lease a singular word is used, it shall also include the plural wherever required by the contract and vice versa. All references in this Lease to periods of days shall be construed to refer to calendar, not business, days. The captions in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions of this Lease. The Exhibits hereto are incorporated by reference and made a part hereof with the same effect as if set out in fully herein.

Section 17.14. Entire Agreement; Amendments. This instrument contains the entire agreement between the parties hereto with respect to the subject matter hereof. All representations, promises and prior or contemporaneous undertakings between such parties are merged into and expressed in this instrument, and any and all prior agreements between such parties are hereby canceled. The agreements contained in this instrument shall not be amended, modified, or supplemented except by a written agreement duly executed by both Landlord and Tenant.

Section 17.15. Notices. Any notice, request, demand, waiver, consent, approval or other communication which is required or permitted hereunder shall be in writing and shall be deemed given only if delivered personally or by a reputable courier service (with all expenses of delivery being prepaid) or sent by registered or certified mail, postage prepaid, as follows:

Landlord:	City of Westfield, Indiana 2728 E. 171st Street Westfield, Indiana 46074 Attn: Todd Burtron, Chief of Staff
With a copy to: (Which shall not constitute notice)	Krieg DeVault LLP 12800 N. Meridian Street, Suite 300 Carmel, Indiana 46032 Attn: Brian J. Zaiger, Esq.
Tenant:	Byrd Enterprises, Inc. P. O. Box 413 Greenwood, IN 46142 Attn: Kevin Manship

or to such other address as the addressee may have specified in a notice duly given to the sender as provided herein. Such notice, request, demand, waiver, consent, approval or other communication will be deemed to have been given as of the earlier of actual receipt or two (2) business days after being so delivered or mailed.

Section 17.16. Counterparts. This Lease may be executed in separate counterparts, each of which when so executed shall be an original, but all of such counterparts shall together constitute one and the same instrument.

Section 17.17. Brokers. Tenant and Landlord covenants, warrants and represents to each other that no broker was involved in bringing about or consummating this Lease, and that neither had any conversations or negotiations with any broker concerning the leasing of the Leased Premises. Each party agrees to indemnify and hold harmless the other against and from any claims for any brokerage commissions and all costs, expenses and liabilities in connection therewith including, but not limited to, attorneys' fees and expenses arising out of any claimed commission from any conversations or negotiations had by the other with any broker.

[signature page follows]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease Agreement as of the day and year first above written.

LANDLORD:

CITY OF WESTFIELD, INDIANA

By: _____

Printed: _____

Title: _____

TENANT:

BYRD ENTERPRISES, INC.

By: _____

Printed: _____

Title: _____

KD_6421276_9.doc

List of Exhibits

Exhibit A	Legal Description
Exhibit B	Depiction of the Facility and Leased Premises
Exhibit C	Building Square Footage
Exhibit D	Rules and Regulations

EXHIBIT A

Legal Description of Facility

INDOOR SOCCER FACILITY
GRAND PARK
WESTFIELD, INDIANA
7.15.2014

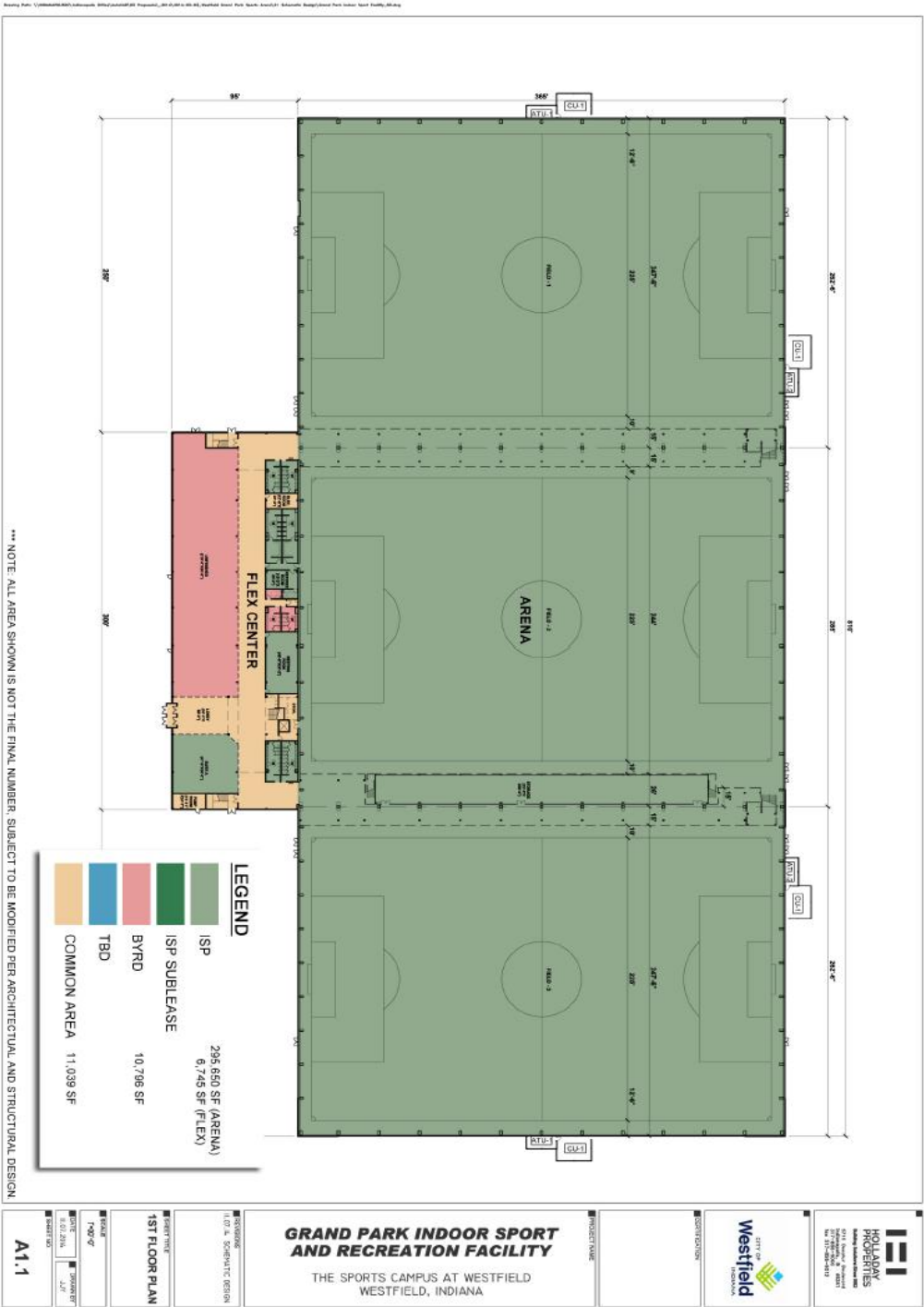
A PART OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 19 NORTH, RANGE 3 EAST, HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION;
THENCE SOUTH 89 DEGREES 54 MINUTES 07 SECONDS WEST 1,196.82 FEET ALONG THE NORTH LINE OF SAID QUARTER SECTION; THENCE SOUTH 00 DEGREES 00 MINUTES 07 SECONDS EAST 40.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 00 DEGREES 00 MINUTES 07 SECONDS EAST 131.49 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 639.08 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 380.00 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 101.94 FEET; THENCE SOUTHWESTERLY 221.77 FEET ALONG AN ARC TO THE RIGHT HAVING A RADIUS OF 336.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 30 DEGREES 53 MINUTES 39 SECONDS WEST AND A LENGTH OF 217.77 FEET; THENCE SOUTH 45 DEGREES 36 MINUTES 00 SECONDS EAST 28.62 FEET; THENCE SOUTHWESTERLY 149.81 FEET ALONG AN ARC TO THE RIGHT HAVING A RADIUS OF 364.50 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 61 DEGREES 09 MINUTES 11 SECONDS WEST AND A LENGTH OF 148.75 FEET; THENCE NORTH 17 DEGREES 04 MINUTES 23 SECONDS WEST 20.00 FEET; THENCE WESTERLY 96.13 FEET ALONG AN ARC TO THE RIGHT HAVING A RADIUS OF 348.57 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 80 DEGREES 52 MINUTES 39 SECONDS WEST AND A LENGTH OF 95.82 FEET; THENCE NORTH 89 DEGREES 54 MINUTES 40 SECONDS WEST 539.70 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 20 SECONDS WEST 20.00 FEET; THENCE NORTH 89 DEGREES 54 MINUTES 40 SECONDS WEST 42.79 FEET; THENCE NORTHWESTERLY 132.02 FEET ALONG AN ARC TO THE RIGHT HAVING A RADIUS OF 80.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF NORTH 47 DEGREES 16 MINUTES 39 SECONDS WEST AND A LENGTH OF 117.54 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 122.52 FEET; THENCE NORTHWESTERLY 172.79 FEET ALONG AN ARC TO THE LEFT HAVING A RADIUS OF 110.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF NORTH 45 DEGREES 00 MINUTES 00 SECONDS WEST AND A LENGTH OF 155.56 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST 5.92 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 41.56 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 115.00 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 451.06 FEET; THENCE NORTH 89 DEGREES 54 MINUTES 07 SECONDS EAST 250.92 FEET TO THE POINT OF BEGINNING AND CONTAINING 14.501 ACRES, MORE OR LESS.

EXHIBIT B

Depiction of the Facility and Leased Premises

The Leased Premises as provided for in this Lease includes the areas designated “Byrd” in the depiction below.





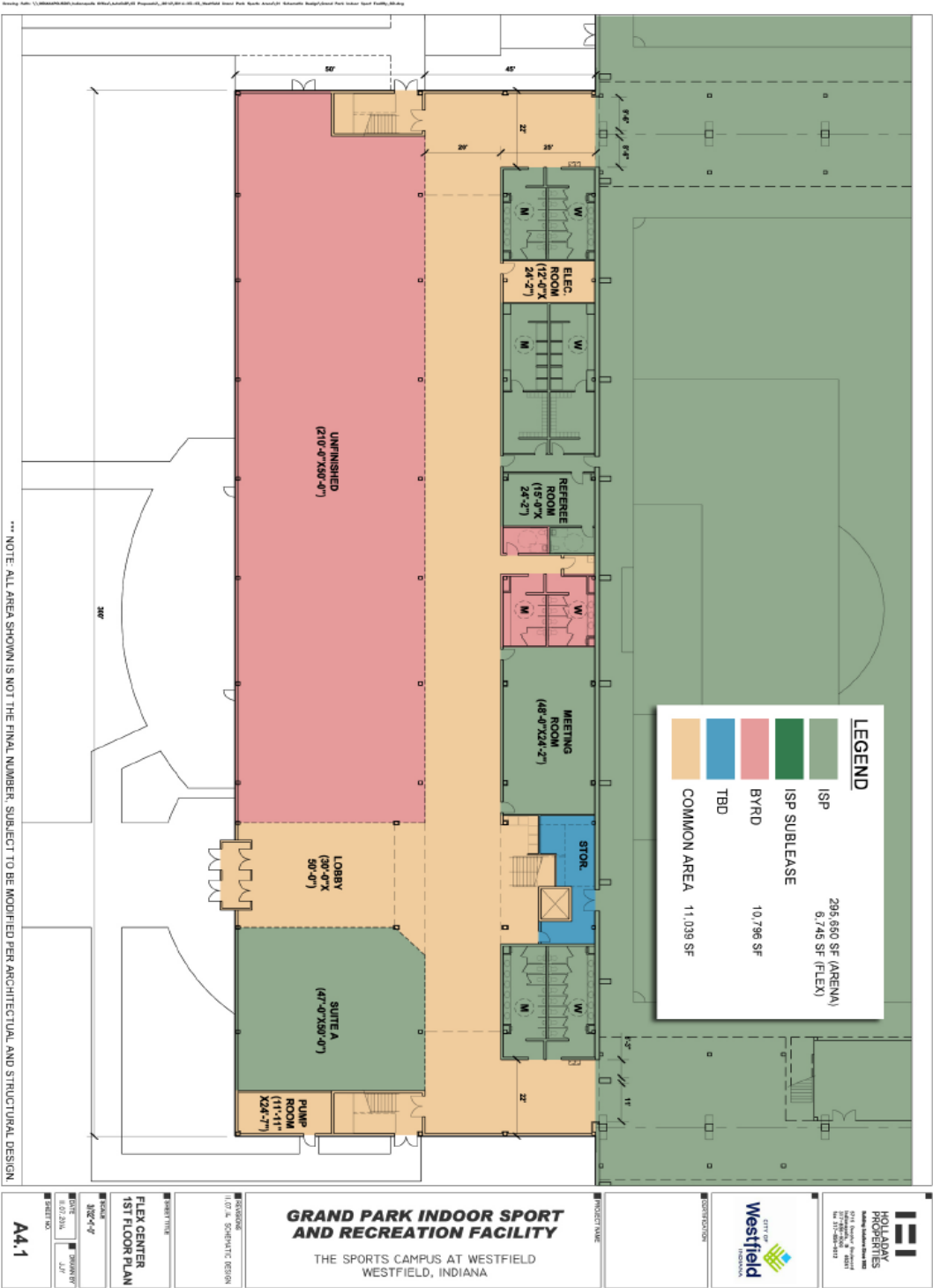


EXHIBIT C

Building Square Footage

Building Square Footage	Byrd
Fields	0 sf
Flex Center	
1st Floor – Restaurant	10,200 sf
1st Floor - Restaurant Restroom	663 sf
1st Floor – Office	0 sf
1st Floor - Storage / Staging	0 sf
1st Floor - Referee Room	0 sf
1st Floor – Field Restrooms/showers	0 sf
2nd Floor - Seating & Bar	4,500 sf
2nd Floor - Seating & Bar Restroom	660 sf
2nd Floor – Office	0 sf
2nd Floor - Multi-purpose- A	0 sf
2nd Floor - Multi-purpose- B	0 sf
2nd Floor - Office Restroom	0 sf
2nd Floor - Mezzanine Viewing Area	0 sf
2nd Floor - Mezzanine Restroom	0 sf
2nd Floor – Mezzanine	0 sf
1st Floor - Common Area	508 sf
2nd Floor - Common Area	232 sf
2nd Floor - Atrium (Common Area)	277 sf
Total Rentable Square Feet	17,040 sf
	4.51%

EXHIBIT D

Rules and Regulations

Tenant agrees for itself, its employees, agents, clients, customers, invitees and guests, to comply with the following rules and regulations. Tenant agrees that Landlord may amend, modify or delete any of the following rules and regulations or add new and additional reasonable rules and regulations for the use and care of the Leased Premises, the parking and other Common Areas and all of the Facility. Tenant agrees to comply with all rules and regulations and upon notice to Tenant from Landlord any modifications thereto. The breach by Tenant of any of these rules and regulations or any subsequent modifications, amendments or additions shall constitute a default by Tenant under the terms of this Lease.

Tenant covenants and agrees with Landlord that:

[Insert any rules or regulations of the Facility]

RESOLUTION 14-136

Resolution of the City of Westfield Authorizing the Execution of Subleases

WHEREAS, the City of Westfield, (“City”) is a duly formed municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council (“Council”); and,

WHEREAS, the Council has the duty and authority to maintain the fiscal integrity and economic growth of the City by entering into advantageous contractual relationships that it finds in the best interests of the City; and,

WHEREAS, the City owns and operates the Grand Park Sports Complex and has recently authorized the lease of a and indoor facility located within Grand Park; and,

WHEREAS, the City has been approached by tenants that wish to operate from the indoor facility and pay rates advantageous to the operation of Grand Park; and,

WHEREAS, the Council having been presented with proposed subleases by potential tenants that represent an opportunity that is in the best fiscal interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the Westfield City Common Council meeting in session as follows:

Section 1. The Council, having been duly advised of the proposed subleases, attached hereto as Exhibits “A” and “B”, now finds that these proposed contractual relationships are in the best interests of the citizens of the City of Westfield.

Section 2. The Council now authorizes the president of the Council to execute these subleases and perform any other act necessary on behalf of the City to carry out the intent of this Resolution.

Section 3. This Resolution shall be in full force and effect upon adoption and all acts undertaken to create these leases and resolution are hereby ratified.

ALL OF WHICH IS RESOLVED THIS _____ DAY OF _____ 2015.

WESTFIELD CITY COUNCIL

<u>Voting For</u>	<u>Voting Against</u>	<u>Abstain</u>
_____ Jim Ake	_____ Jim Ake	_____ Jim Ake
_____ Steven Hoover	_____ Steven Hoover	_____ Steven Hoover
_____ Robert L. Horkay	_____ Robert L. Horkay	_____ Robert L. Horkay
_____ Charles Lehman	_____ Charles Lehman	_____ Charles Lehman
_____ Robert J. Smith	_____ Robert J. Smith	_____ Robert J. Smith
_____ Cindy L. Spoljaric	_____ Cindy L. Spoljaric	_____ Cindy L. Spoljaric
_____ Robert W. Stokes	_____ Robert W. Stokes	_____ Robert W. Stokes

ATTEST:

Cindy J. Gossard, Clerk Treasurer

I hereby certify that RESOLUTION 14-136 was delivered to the Mayor of Westfield
on the _____ day of _____, 2015, at _____ m.

Cindy J. Gossard, Clerk Treasurer

I hereby APPROVE resolution 14-136 this	I hereby VETO resolution 14-136
_____ day of _____, 2015.	this _____ day of _____, 2015

J. Andrew Cook, Mayor

J. Andrew Cook, Mayor

ATTEST:

Cindy J. Gossard, Clerk Treasurer

This document prepared by
Brian J. Zaiger, Esq.
KRIEG DEVAULT, LLP
(317) 238-6266

ORDINANCE NUMBER 14-51

AN ORDINANCE OF THE CITY OF WESTFIELD AND WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA CONCERNING AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE

This is a Planned Unit Development District Ordinance (to be known as the “**SHEFFIELD PARK PUD DISTRICT**”) to amend the Unified Development Ordinance of the City of Westfield and Washington Township, Hamilton County, Indiana (the "Unified Development Ordinance"), enacted by the City of Westfield pursuant to its authority under the laws of the State of Indiana, Ind. Code § 36-7-4 et seq., as amended.

WHEREAS, the City of Westfield, Indiana (the "City") and the Township of Washington, both of Hamilton County, Indiana are subject to the Unified Development Ordinance;

WHEREAS, the Westfield-Washington Advisory Plan Commission (the "Commission") considered a petition (**Petition No. 1412-PUD-17**), requesting an amendment to the Unified Development Ordinance and to the Zoning Map with regard to the subject real estate more particularly described in **Exhibit A** attached hereto (the "Real Estate");

WHEREAS, the Commission forwarded **Petition No. 1412-PUD-17** to the Common Council of the City of Westfield, Hamilton County, Indiana (the "Common Council") with a favorable recommendation (7-0) in accordance with Indiana Code § 36-7-4-608, as required by Indiana Code § 36-7-4-1505;

WHEREAS, the Secretary of the Commission certified the action of the Commission to the Common Council on _____, 2015;

WHEREAS, the Common Council is subject to the provisions of the Indiana Code §36-7-4-1507 and Indiana Code § 36-7-4-1512 concerning any action on this request; and

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Westfield, Hamilton County, Indiana, meeting in regular session, that the Unified Development Ordinance and Zoning Map are hereby amended as follows:

Section 1. Applicability of Ordinance.

- 1.1 The Unified Development Ordinance and Zoning Map are hereby changed to designate the Real Estate as a Planned Unit Development District to be known as the “**Sheffield Park PUD District**” (the “District”).
- 1.2 Development of the Real Estate shall be governed by: (i) the provisions of this Ordinance and its exhibits; and (ii) the provisions of the Unified Development

Ordinance, as amended and applicable to the Underlying Zoning District or a Planned Unit Development District, except as modified, revised, supplemented or expressly made inapplicable by this Ordinance.

- 1.3 Chapter (“*Chapter*”) and Article (“*Article*”) cross-references of this Ordinance shall hereafter refer to the section as specified and referenced in the Unified Development Ordinance.
- 1.4 All provisions and representations of the Unified Development Ordinance that conflict with the provisions of this Ordinance are hereby made inapplicable to the Real Estate and shall be superseded by the terms of this Ordinance.

Section 2. Definitions. Capitalized terms not otherwise defined in this Ordinance shall have the meanings ascribed to them in the Unified Development Ordinance.

- 2.1 Underlying Zoning District: The Zoning District of the Unified Development Ordinance that shall govern the development of this District and its various subareas, as set forth in Section 4 of this Ordinance.
- 2.2 Trail: Any pedestrian or nature trail internal to the District that is used by pedestrians, hikers, or pets. A trail may be paved or maintained in a natural state (e.g., gravel, rock, grass or mulch).

Section 3. Concept Plan. The Concept Plan, attached hereto as **Exhibit B**, is hereby incorporated in accordance with *Article 10.9(F)(2) Planned Unit Development Districts; PUD District Ordinance Requirements; Concept Plan*. The Real Estate shall be developed in substantial compliance with the Concept Plan.

Section 4. Underlying Zoning District(s). The Underlying Zoning District of this District shall be the **SF-4: Single Family High Density District**. Except as modified, revised, supplemented or expressly made inapplicable by this Ordinance, the standards of the Underlying Zoning District, as set forth above, shall apply.

Section 5. Permitted Uses. All uses permitted in the Underlying Zoning District, as set forth in *Chapter 4* and *Chapter 13* shall be permitted.

Section 6. General Regulations. The standards of *Chapter 4: Zoning Districts*, as applicable to the Underlying Zoning District, shall apply to the development of the District, except as otherwise modified below.

- 6.1 Minimum Building Setback Line for a Side Yard: 5 feet
- 6.2 Minimum Lot Width: 65 feet.

6.3 Maximum Building Height: Two and one-half (2 ½) stories.

6.4 Minimum Living Area:

1. Single Story: 1,500 square feet.
2. Two Story: 1,700 square feet.

Section 7. Development Standards. The standards of *Chapter 6: Development Standards* shall apply to the development of the District, except as otherwise modified below.

7.1 *Article 6.3 Architectural Standards:* Shall apply. In addition, the following shall also apply:

- A. Character Exhibit. The Character Exhibit, attached hereto as **Exhibit C**, is hereby incorporated as a compilation of images designed to capture the intended quality of structures to be constructed in the District. Although the exhibits do not necessarily represent the final design or specify a required architectural style or element, they do hereby establish a benchmark for the quality and appearance of structures that are permitted to be constructed and that contribute to the District's intent and vision. It is not the intent to limit the architectural styles shown in Exhibit C, but to encourage diversity in architectural styles of Dwellings within the District. The Department shall determine whether a structure is consistent with the established benchmark and complies with the standards of this Ordinance. The Department's decision may be appealed to the Plan Commission.
- B. Building Materials: In addition to *Article 6.3(C)(3) Building Materials*, the following shall apply: Vinyl and aluminum siding shall be prohibited.
- C. Garages: All Dwellings shall have a minimum of a two (2) car attached garage.

7.2 *Article 6.8 Landscaping Standards:* Shall apply, except as otherwise modified below.

- A. *Article 6.8(N) Buffer Yard Requirements* shall only apply in the areas labelled "Buffer Yard" on the Concept Plan. Additionally, the existing vegetation, labeled as "Preserved Natural Buffer Yard" on the Concept Plan, shall be preserved pursuant to *Article 6.8(E)* and satisfy the required Buffer Yard planting materials in these areas. A tree preservation easement shall be established within the Preserved Natural Buffer Yard. Within this tree preservation easement, no trees with a diameter at breast height ("DBH") in excess of four inches (4") or more (the "Protected Trees") shall be removed unless the tree is damaged, diseased, dead, or is to be removed in order to: (1) comply with safety requirements of any

governmental agency; or (2) to accommodate the installation of drainage, utilities, street connections or other infrastructure. If a Protected Tree is damaged or otherwise removed by the developer or builder, except as permitted to be removed as listed above, then the developer or builder shall reestablish the Protected Tree with a tree or trees of combined equal or greater DBH subject to the availability of space for their healthy growth in the tree preservation area.

- B. Lots marked with an asterisk (*) on the Concept Plan shall provide at least one of the following:
 - i. Three (3) shade trees and three (3) evergreen trees per lot within 30' of the Rear Lot Line. The trees shall be located either on the Real Estate or on the property directly south of the Real Estate. If the trees are located on the property directly south of the Real Estate, then a recorded landscape easement shall be established, and the trees shall be planted within the easement; or
 - ii. Rear Building Façade Enhancements, as prescribed in *Article 6.3(C)(b)(i)(b)*.

Section 8. Infrastructure Standards. The District's infrastructure shall comply with the Unified Development Ordinance and the City's Construction Standards (see *Chapter 7: Subdivision Regulations*), unless otherwise approved by the Plan Commission or Department of Public Works in consideration of the preservation of the natural topography and environment and in consideration to the unique design intent of the District.

Section 9. Design Standards. The standards of *Chapter 8: Design Standards* shall apply to the development of the District, except as otherwise modified below.

- 9.1 *Article 8.6 Open Space and Amenity Standards* shall apply; however, the Minimum Open Space for the District shall be enhanced to require a minimum of twenty percent (20%). All Open Space shall be common area and deeded to and maintained by a homeowners' association.

Section 10. Amenities. Amenities shall be provided in accordance with this section.

- 10.1 At least two (2) of the following shall be included within the District:
 - A. Clubhouse (minimum of 650 square feet);
 - B. Swimming pool;
 - C. Playground;
 - D. Open Space or park (minimum of 5,000 square feet);

- E. Trail;
 - F. Basketball court;
 - G. Volleyball court;
 - H. Picnic area.
- 10.2 In the event the construction of the District is phased, at least one (1) amenity shall be constructed in each of the first two (2) phases.
- 10.3 The Overall Development Plan shall identify the area(s) to be set aside for amenities. The specific details of the amenity areas (Detailed Development Plans) shall be reviewed by the Department for further compliance at the time of the Improvement Location Permit review.

ALL OF WHICH IS ORDAINED/RESOLVED THIS ## DAY OF _____, 2015.

WESTFIELD CITY COUNCIL

Voting For

Voting Against

Abstain

Jim Ake

Jim Ake

Jim Ake

Steven Hoover

Steven Hoover

Steven Hoover

Robert L. Horkay

Robert L. Horkay

Robert L. Horkay

Charles Lehman

Charles Lehman

Charles Lehman

Robert J. Smith

Robert J. Smith

Robert J. Smith

Cindy L. Spoljaric

Cindy L. Spoljaric

Cindy L. Spoljaric

Robert W. Stokes

Robert W. Stokes

Robert W. Stokes

ATTEST:

Cindy Gossard, Clerk Treasurer

I hereby certify that **ORDINANCE 14-51** was delivered to the Mayor of Westfield
on the _____ day of _____, 2015, at _____ m.

Cindy Gossard, Clerk-Treasurer

I hereby APPROVE **ORDINANCE 14-51**
this _____ day of _____, 2015.

J. Andrew Cook, Mayor

I hereby VETO **ORDINANCE 14-51**
this _____ day of _____, 2015.

J. Andrew Cook, Mayor

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law: Jeffrey M. Lauer, Associate Planner, City of Westfield.

This document prepared by: Jim Langston, Langston Residential Development, LLC., 1132 S. Rangeline Road, Carmel, IN 46032 (317) 846-7017.

SCHEDULE OF EXHIBITS

Exhibit A	Real Estate (Legal Description)
Exhibit B	Concept Plan
Exhibit C	Character Exhibit

EXHIBIT A
REAL ESTATE

ZONING DESCRIPTION

A part of the Southwest Quarter of Section 32, Township 19 North, Range 4 East, in Washington Township, Hamilton County, Indiana, more particularly described as follows:

Beginning at the Northeast corner of said Quarter Section; thence South along the East line thereof a distance of 1,190 feet; thence West a distance of 1,940 feet to a point on the East property line of Grassy Knoll Subdivision; thence North along said East line of Grassy Knoll Subdivision a distance of 1,190 feet to a point on the North line of said Quarter Section; thence East along said North line a distance of 1,940 feet to the place of beginning, containing 53.0 acres more or less.

This legal description is for zoning purposes only and subject to change upon the completion of a boundary survey.

EXHIBIT B
CONCEPT PLAN



EXHIBIT C
CHARACTER EXHIBIT

